



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 9, 2008

9/11 Ceremony

At 6:00 p.m. on Tuesday, September 9, 2008, in the Council Chambers, a Ceremony was held commemorating the Seventh Anniversary of the September 11 terrorist attacks. John Smith, Sussex County EMS Chaplain and retired New York City police officer, delivered a few remarks about the significance of 9/11 and those who serve. Terry Jester, from the Delaware Volunteer Firemen's Association and Chief of Memorial Fire Company in Slaughter Beach, sounded the bells to honor those who were lost on September 11, 2001.

The Pledge of Allegiance was led by President Jones.

Regular Meeting/ Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 9, 2008 at 6:22 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Finley B. Jones, Jr.	President
Lynn J. Rogers	Vice President
Dale R. Dukes	Member
George B. Cole	Member
Vance Phillips	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
James D. Griffin	County Attorney

The Lord's Prayer was led by President Jones.

M 599 08 Amend and Approve Agenda

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to amend the Agenda by deleting *Milton Library Project – Second Floor Completion, Contract Award* under Russell Archut, Assistant County Engineer, and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 600 08

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the

**Approve
Minutes**

minutes of August 12, 2008.

Motion Adopted: 5 Yeas.

**M 600 08
(continued)**

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**M 601 08
Approve
Minutes**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the minutes of August 19, 2008.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Corre-
spondence**

Mr. Griffin read the following correspondence:

EVERLASTING HOPE MINISTRIES, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council's recent donation.

**DAVID B. MITCHELL, ESQ., SECRETARY, DEPARTMENT OF
SAFETY & HOMELAND SECURITY, DOVER, DELAWARE.**

**RE: Letter of thanks to Sussex County Emergency Medical Services, the
Sussex County Paramedic Association and the Sussex County Council
regarding the support provided during the recent tragic loss of Paramedic
Stephanie Calloway.**

**STEVE McCREARY, SENIOR RESEARCH TECHNICIAN, DELAWARE
GEOLOGICAL SURVEY, NEWARK, DELAWARE.**

**RE: Letter to Heather Sheridan, South Coastal Regional Wastewater
Facility, thanking the Department for its continued support of geological
research on properties maintained by the Department.**

**HAROLD E. DUKES, JR., CHAIRMAN, BOARD OF DIRECTORS, SAFE
HAVEN ANIMAL SANCTUARY OF SUSSEX COUNTY, NASSAU,
DELAWARE.**

RE: Letter in appreciation of the Council's recent donation.

**HARRY ROOSEVELT, EXECUTIVE DIRECTOR, DELAWARE
SAFETY COUNCIL, INC., WILMINGTON, DELAWARE.**

**RE: Letter in appreciation of the Council's membership and support of the
Safety Council.**

BETHEL HISTORICAL SOCIETY, BETHEL, DELAWARE.

RE: Letter in appreciation of the Council's recent donation.

DARREL W. COLE, DIRECTOR, DELAWARE DEPARTMENT OF TRANSPORTATION, DOVER, DELAWARE.

RE: Letter regarding the Indian River Inlet Bridge Design Unveiling scheduled for Wednesday, September 17th at 1:00 p.m. at the project site.

**Corre-
spondence
(continued)**

BAY SHORE COMMUNITY CHURCH, MILLSBORO, DELAWARE.

RE: Letter in appreciation of the Council's recent donation for the Blessings Unlimited Food Distribution Program.

STEVEN W. BOMBERGER, HOME BUILDERS ASSOCIATION OF DELAWARE, DOVER, DELAWARE.

RE: Letter advising (and expressing concern) that there is an effort underway by proponents of fire sprinklers to achieve a national mandate for these costly systems in all new housing.

CASEY J. LEWIS, BOY SCOUT TROOP 95, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council's recent donation.

BRYAN HALL, OFFICE OF STATE PLANNING AND COORDINATION, DOVER, DELAWARE.

RE: Email extending thanks to Shane Abbott and Debbie Street, County employees, for their assistance with the development of the Office's annual report for the upcoming State General Assembly.

RUDOLPH E. WILSON, PRESIDENT, SEAFORD HISTORICAL SOCIETY, SEAFORD, DELAWARE.

RE: Letter in appreciation of the Council's recent donation.

EASTER SEALS, GEORGETOWN, DELAWARE.

RE: Letter of invitation to an Open House on October 9th to celebrate the newly constructed commemorative brick patio at the Easter Seals Tunnell Center.

**Election
Year
Scholarship
Contest**

Mr. Baker asked the Councilmembers if there was any interest in sponsoring the Sussex County Election Year Scholarship Contest again this election year. The County Council first created the contest for the 2000 election at the suggestion of Councilman Phillips. Mr. Baker presented information on the contest that, with the Council's approval, will be posted on the County's website. Students age 18 and under (that are residents of Sussex County) will be encouraged to participate in the contest. The contest is designed to be both entertaining and educational, encouraging the youth of Sussex County to be involved in the upcoming elections and issues being faced both as a Nation and in our communities.

Eddie Sparpaglione, Director of Information Systems, reported that students will have to predict the winner for the elections taking place in Sussex County for the County Council and Row Offices, as well as the President, Congressional Representatives, Governor, Lieutenant Governor,

State Representatives and Senators, and Insurance Commissioner. Winners will be determined by the most number of elections that are predicted correctly. Mr. Sparpaglione proposed that the student with the most correct predictions would win a \$300 scholarship, while the five runners-up would each win \$200 scholarships.

(continued) In the past, the firm of Griffin & Hackett has provided \$200.00 in funding for the scholarship awards.

M 602 08
Establish
Election
Year
Scholarship
Contest

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, that the Sussex County Council hereby establishes the Sussex County Election Year Scholarship Contest for 2008; the first place winner will receive a \$300.00 scholarship and the five runners-up will each receive a \$200.00 scholarship; \$220.00 will be provided from each Community Grant Account and \$200.00 will be provided by the law firm of Griffin & Hackett.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

Advisory
Committee/
Vacancy

Mr. Baker announced that two appointments on the Advisory Committee for the Aging and Adults with Physical Disabilities expired in August, those of Newton Crouse and Sandra Dole (Sandra Dole has resigned from the Committee).

M 603 08
Appoint-
ment to
Advisory
Committee

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to appoint Anna Short to the Advisory Committee for the Aging and Adults with Physical Disabilities for a term of two years, ending August 2008 (replacing Newton Crouse).

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Absent;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

No action was taken on a replacement for Sandra Dole.

DelDOT
CTP
Request

Mr. Baker presented a Draft of Sussex County's 5-Year Capital Transportation Program Request which will be presented in final form to DelDOT at a workshop scheduled on September 11, 2008 from 6:00 p.m. to 9:00 p.m. at Delaware Technical & Community College in Georgetown. Mr. Baker reviewed the Draft Report and encouraged the Council to submit comments prior to the submission of the report on September 11th.

Lease
Agreement
with

Mr. Baker presented a proposed Commercial Lease Agreement between Delaware Technical & Community College (DTCC) and Sussex County for the Aircraft Hangar located on Lot A3-3 at the Sussex County Airport. The

**DTCC
for
Aircraft
Hangar**

County purchased and renovated the hangar to establish a location for an Airframe Mechanics Training Program to be offered by DTCC.

Mr. Baker reviewed the proposed terms of the lease:

**Lease
Agreement
(continued)**

- **30 years; an extension can be negotiated, if desired.**
- **Use is limited to aeronautical related accredited post-secondary education.**
- **DTCC will be responsible for the utilities.**
- **\$0 rent.**
- **Assignment and subletting not allowed.**
- **DTCC will provide General Liability, Workers' Compensation, and Aircraft Liability insurance. DTCC will also insure equipment and building contents.**
- **County will cover property insurance for the building.**
- **DTCC may construct an addition at their cost.**

Mr. Baker reported that the facility will be ready for DTCC's use no later than September 10th and that approximately twenty students are currently enrolled in the program, which began this month. Classes are currently held at DTCC's Georgetown location; DTCC anticipates using the hangar for the Spring semester, or sooner.

Mr. Baker reported that there was a short delay in the construction contract; however, Gene Kelly of the County Engineering Department will appear before the Council on September 16th to request that Substantial Completion of the project be granted.

**M 604 08
Approve
Lease
Agreement
with
DTCC**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, that the Sussex County Council approves a 30-Year Lease Agreement with Delaware Technical & Community College for an accredited aeronautical-related post-secondary education program, subject to the approval of the County Administrator and the County Attorney.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Absent;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**Adminis-
trator's
Report**

Mr. Baker read the following information in his Administrator's Report:

1. **Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities – September 15 Meeting**

Attached was a copy of the Agenda for the September 15, 2008, meeting of the Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities. The meeting will be held at the

West Administrative Complex on North DuPont Boulevard in Georgetown at 10:00 a.m. One of the topics is budget cuts on services for senior citizens.

Adminis-
trator's
Report
(continued)

2. Etta Mae Richardson – Former County Employee

We regret to announce that Etta Mae Richardson, who was employed by Sussex County as a Deputy in the Recorder of Deeds office from January 3, 1967, through January 7, 1975, passed away on August 31, 2008. We wish to express our condolences to the family.

3. Beneficial Acceptance

The Engineering Department has granted Beneficial Acceptance to the following projects:

- Long Neck Medical Office, Agreement No. 810, was granted Beneficial Acceptance on August 22, 2008. The developer is C & J Properties, L.L.C., and the project is located east 1,500 feet from the intersection of Route 24 and Route 5 in the Long Neck Sanitary Sewer District, consisting of an 8,995-square-foot medical office building.
- Lands of Dennis and Peggy Wyatt, Agreement No. 800, was granted Beneficial Acceptance on August 26, 2008. The developer is Dennis and Peggy Wyatt and the project is located along County Road 240 between State Route 16 and County Road 231 in the Ellendale Sanitary Sewer District, consisting of seven units with grinder pumps.
- Long Neck Shores, Phase 4, Agreement No. 820, was granted Beneficial Acceptance on September 4, 2008. The developer is D & M Holdings, Inc., and the project is located on Sussex County Road 299 in the Long Neck Sanitary Sewer District, consisting of 85 single-family and age-restricted dwellings.

Included with this report was a fact sheet on each of the projects.

4. Tropical Storm Hanna

As per the attached press release, the Sussex County Emergency Operations Department was on alert this past Friday and Saturday, September 5 and 6, 2008, to monitor Tropical Storm Hanna. Fortunately, Sussex County was spared any major damage from the storm, although there were disruptions to power service and some tree damage. Wind gusts of up to 40 miles per hour were recorded, but there was minimal damage from flooding.

I wish to thank our employees at the Emergency Operations Center including Joseph Thomas, Debra Jones, Ricky Short, and Carol Cathell. They were on alert at the Emergency Operations Center responding to calls and monitoring the situation on Saturday.

Economic
Develop-
ment
Stimulus
Loan for
Arrow
Safety
Device
Company

Mrs. Webb reported that, on August 22, 2008, the Economic Development Stimulus Loan Committee met to discuss an application for the purchase of the Arrow Safety Device Company, Inc. Jeff Bowers, one of the Applicants, stated that the \$150,000 loan from the Economic Development Stimulus Loan Program would be used to purchase an existing company, the Arrow Safety Device Company, Inc. Mr. Bowers explained that the company has two locations, one in Georgetown and one in Mount Holly, New Jersey. Mr. Bowers proposes to bring 27 new jobs to Sussex County.

Mr. Bowers stated that in 2007, he along with the same two partners, were the recipients of an Economic Development Stimulus Loan for \$150,000 for a start-up manufacturing company, YSD Running Boards, LLC, and that the loan has since been paid off.

Mrs. Webb outlined the terms of the loan:

- \$150,000 loan at 2 percent interest amortized over a 10-year period.
- The County would secure a first position on a building owned free and clear in the Selbyville Industrial Park; however, the County would have to agree upfront to change that to a second position if they need to mortgage that building to expand.
- Personal guarantees by the three partners and their spouses.
- Add two additional full-time jobs annually for the next five years; if not, the interest rate increases to 5 percent.
- Legal costs to be paid by the applicant.
- Insurance coverage as required by Sussex County.
- Loan would be contingent upon the August 30th settlement date for the purchase of the building.
- Funding would be from the Economic Development Stimulus Loan Program.

M 605 08
Authorize
Economic
Develop-
ment
Stimulus
Loan to
Arrow
Safety
Device
Company

A Motion was made by Mr. Rogers, seconded by Mr. Cole, that the Sussex County Council authorizes a \$150,000 Economic Development Stimulus Loan to Arrow Safety Device Company, Inc. for economic development purposes, with the terms as outlined.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

Draft

Mrs. Webb presented for introduction a Draft Ordinance which provides

**Ordinance/
Bonds/
Angola
Neck SSD** for the issuance of up to \$28,500,000 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of the wastewater collection, transmission and treatment facilities for the Angola Neck Sanitary Sewer District.

**Introduction
of Proposed
Ordinance** Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$28,500,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE CONSTRUCTION AND EQUIPPING OF THE ANGOLA NECK SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH”. The Proposed Ordinance will be advertised for Public Hearing.

**Local
Law
Enforce-
ment
Grant
Requests** Mr. Godwin presented the following requests for Local Law Enforcement Grants:

Dewey Beach	\$25,000.00	Police Car & Light Package
Georgetown	\$25,000.00	Payment on Lease Purchase Agreement for 3 Police Cars
Milford	\$ 6,683.25	Ammunition
Seaford	\$22,533.00	Police Car

**M 606 08
Approve
Local
Law
Enforce-
ment
Grants** A Motion was made by Mr. Dukes, seconded by Mr. Rogers, that the Sussex County Council approves the Local Law Enforcement Grants to Dewey Beach, Georgetown, Milford, and Seaford, as presented.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

Agreements Mr. Godwin presented Wastewater Agreements for the Council’s approval.

**M 607 08
Approve
Wastewater
Agreements/
Muddy
Neck, LLC** A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 903, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Muddy Neck, LLC, for wastewater facilities to be constructed in The Preserves at Jefferson Creek – Phase 2, located in the South Bethany Sanitary Sewer District.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;

**Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

M 608 08 **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon**
Approve **the recommendation of the Sussex County Engineering Department, for**
Wastewater **Sussex County Project No. 81-04, Agreement No. 904, that the Sussex**
Agreements/ **County Council execute a Construction Administration and Construction**
Muddy **Inspection Agreement between Sussex County Council and Muddy Neck,**
Neck, LLC **LLC, for wastewater facilities to be constructed in The Preserves at**
 Jefferson Creek, Phase 3, located in the South Bethany Sanitary Sewer
 District.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
 Mr. Dukes, Yea; Mr. Jones, Yea;
 Mr. Rogers, Yea

Lease **Jim Hickin, Director of Airport and Industrial Park Operations, presented**
Assignment/ **a request for a Lease Assignment from New Process Fibre Company. The**
New **Company leases a one-acre lot on Rudder Lane at the Airport. The original**
Process **Lease for the Lot, dated August 1984, was a 15-year Lease with two five-**
Fibre to **year renewal options (to August 2009). The use was for aircraft storage**
Everett **which allows for a commercial operation to take place. The current annual**
and **rent is \$1,500 per year (3 1/2 cents per square foot); an appraisal last year**
James **indicated an appraised value of 37 cents per square foot or \$16,000 per**
Bennett **year.**

Mr. Hickin reported that, in March 2007, New Process Fibre Company sold
the hangar that they own on the lot to Everett and James Bennett. They are
now requesting that the County assign the Lease to the Bennett's.

Mr. Hickin stated that, typically, he does not support assigning leases;
however, in this case, he supports the assignment since there is only one
year remaining on the Lease and after that time, a new Lease can be
negotiated based on the County's new Lease Policy. Mr. Hickin proposed
a change to the Lease, making it a non-commercial lease.

M 609 08 **A Motion was made by Mr. Cole, seconded by Mr. Dukes, that the Sussex**
Authorize **County Council authorizes the Assignment of the Lease and Operating**
Assignment **Agreement with New Process Fibre Company, dated August 10, 1984, to**
of Lease/ **Everett C. Bennett and James P. Bennett; such Assignment to include an**
New Process **Amendment of the Lease under the terms presented on September 9, 2008.**
Fibre Co. to

Everett and **Motion Adopted: 5 Yeas.**

James **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;**
Bennett

**Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**Millville
Contract/
Banks
Acres** **Brad Hawkes, Director of Utility Engineering, reported that construction on the Banks Acres, Banksville Park, and SR 26 in the Millville Sanitary Sewer District was completed on January 2, 2008, ahead of schedule and under the budgeted estimate. Mr. Hawkes stated that a Balancing Change Order will be presented to the Council in the near future; a credit is expected for this contract.**

**M 610 08
Grant
Substantial
Completion/
Banks
Acres** **A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, LLP, and the County Engineering Department, that the Sussex County Council grant Substantial Completion, effective August 21, 2008, for Contract No. 05-06-C, Banks Acres, Banksville Park, and SR 26 East to A. P. Croll & Sons, Inc., and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**Public
Hearing
(C/Z
No. 1651)** **A Public Hearing was continued on the Public Hearing on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 78.228 ACRES, MORE OR LESS” (Change of Zone No. 1651) filed on behalf of Caldera Properties – Indian River V, LLC.**

Lawrence Lank, Director of Planning and Zoning, reported that the County Council opened the Public Hearing on Change of Zone No. 1651 on May 13, 2008. At that Public Hearing, James Fuqua, Attorney for the Applicant, and Michael Malkiewicz, Attorney for the Opponents, stated that the Applicant and the Opponent have been working to resolve some issues and they requested that the Public Hearing be continued. The Council voted unanimously to continue the Public Hearing to September 9th.

Mr. Lank reported that, on April 24, 2008, the Planning and Zoning Commission opened and continued their Public Hearing on this Application until July 10, 2008, at the request of the Applicant and the Opponents; on August 20, 2008, the Commission recommended that the Application be

approved with sixteen conditions.

Mr. Lank reported that, prior to the Public Hearings, the Applicant provided an Appendices and an Exhibit Book. This information was distributed to the Council.

Public
Hearing
(C/Z
No. 1651)
(continued)

Mr. Fuqua stated that a revised Project Book was also submitted, dated June 30, 2008, and that the only change is the proposed road location.

Richard Polk was present on behalf of Caldera Properties – Indian River V, LLC. Also present on behalf of the application were James Fuqua, Attorney, and Jason Palkewicz of McCrone, Inc. They stated that they are proposing a RPC overlay to allow for the construction of 71 single family detached condominium units with recreational facilities; that originally in the 1970s, the site and some additional lands were approved as a MR-RPC titled Walter's Bluff; that the MR-RPC was voided for lack of construction; that in 2004, an application was filed for this site to be MR-RPC; that the Commission recommended denial of that application and the Council approved the overlay with conditions; that the Council's decision was appealed to Chancery Court by Barbara Murray; that the Chancery Court decided that the Council failed to state their reasons for granting approval and therefore, the Applicants have reapplied; that there are some differences in this application and the application filed in 2004; that some of the building sites have been relocated on the site plan; that a Cultural Resource Study was performed and a small cemetery was found on the site; that the cemetery boundaries have been delineated and identified; that access will be provided to the cemetery; that the cemetery will be preserved and maintained by the Homeowners Association; that an Environmental Site Assessment was performed; that a wetlands delineation was performed by Environmental Services, Inc. and the final wetlands delineation has been reviewed and agreed to by DNREC; that at DNREC's request, the State wetland line was re-delineated and the 50 foot wetland buffer was adjusted to coincide with the wetland line; that DNREC has reviewed and agreed to the wetlands re-delineation; that the site is located in an Investment Level 3 Area according to State Strategies Maps; that the site is located in the Environmentally Sensitive Developing Area, a growth area according to the Comprehensive Plan; that the RPC calculation method equals a maximum of 77 units and that only 71 units are proposed; that each unit will have a two car garage; that additional parking spaces are proposed throughout the project; that amenities are proposed including a clubhouse and pool, which will be constructed and open within two years of issuance of the first building permit; that sidewalks will be provided on one side of the streets; that the proposed development is in character with the existing residential mixed use area; that the site is in close proximity to Tuckahoe Acres Campground, Holts Landing State Park, Ellis Point RPC, Cripple Creek and others; that there is extensive residential use in the area; that in response to the PLUS comments, all boat docks, piers and boardwalks have been deleted from the plan and there will be no access to the Indian River Bay; that this application relates to the access easement resulting in no encroachment into wetlands by the proposed access road; that they are

Public
Hearing
(C/Z
No. 1651)
(continued)

proposing to use sand filters for storm water management facilities maintained with Best Management Practices, rather than ponding; that landscaping will be installed along the Murray property; that the only access to the project will be through the Murray property; that all of the units would have a view of the water, except for the units along the Murray property; that the units will be condominium units and no lots are being created; that an upland roadway eliminates the disturbance of wetlands; that DNREC was opposed to the original plans; that the application for the original wetlands crossing has been withdrawn from DNREC's consideration since it could take a minimum of 6 to 9 months to satisfy DNREC; that there are 16 acres of uplands; that the overall boundary has changed since the previous boundary went out into the water; that a 50-foot setback is proposed from all tidal wetlands; that the sewer pump station is proposed to be located near the clubhouse and that the location shall be subject to approval of the County Engineer; that the access entrance will be gated; that the access road is proposed to have a landscaped median; that all wetlands and the original access-way are proposed to be dedicated to a conservation easement; that the Applicants have no objection to a requirement that silt fencing be placed at the 50-foot buffer setback from tidal wetlands; that when a property owner owns all of the lands along a right-of-way, an administrative abandonment may be approved by DelDOT to abandon a portion of State road right-of-way; that in the original application, the access was proposed to be a 1,300 foot bridge roadway entrance and the Council was opposed to this access; that the Applicant and Barbara Murray have been involved in detailed and good faith discussions in an attempt to reach an agreement; that a mutually acceptable agreement has been reached on behalf of both parties; that as a result of the agreement, the access road to Riverview will be located on uplands on an access easement over Mrs. Murray's property; that no wetlands will be impacted and no bridges will be required for the access; that the new access is shown on the revised site plan and it will be subject to final site plan approval; that water for the development will be provided by Tidewater Utilities, Inc.; that public sewer will be provided by Sussex County; that all costs for the sewer will be paid by the developer; and that DelDOT did not require a Traffic Impact Study due to the small size of the development.

Mr. Fuqua asked the Council to defer action on this application and to leave the record open for a letter from Michael Malkiewicz, Attorney for Barbara Murray, stating that an Agreement has been reached.

Mr. Fuqua referenced Condition No. 8, as recommended by the Commission: "The interior street design shall include sidewalks on both sides of the street and street lights, and shall be in accordance with or exceed Sussex County street design requirements and specifications." Mr. Fuqua asked that the Council amend the Proposed Condition so that sidewalks would only be required on one side of the streets.

The Commission found that Mr. Fuqua provided copies of suggested Findings of Fact and Conditions of Approval.

Councilman Jones suggested that any conditions of approval should include a reference to bonding requirements and a Homeowners Association requirement.

**Public
Hearing
(C/Z
No. 1651)
(continued)**

The Commission found that Michael Malkiewicz, Attorney for Barbara Murray and other adjacent landowners, was present and he confirmed that they have reached a mutual agreement with the Applicant. He stated that a few minor things need to be changed and a document needs to be prepared and executed. He noted that his clients' major concerns relating to safety and the environment have been addressed. He stated that the new access road is on uplands, which is safe land, which will be better if there is a need to evacuate the area. In addition, the new proposal provides for the protection and preservation of the pond and the State and Federal wetlands. Mr. Malkiewicz asked that the Council support the approval of this application once an Agreement has been signed by all parties and received by the County.

There were no public comments and the Public Hearing was closed.

**M 611 08
Defer
Action on
C/Z
No. 1651**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to defer action on Change of Zone No. 1651 filed on behalf of Caldera Properties – Indian River V, LLC and to leave the record open for a period of thirty days for the receipt of a letter from Barbara Murray indicating that an agreement has been reached with the Applicant and stating that she has no objection to the application.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

Requests

Mrs. Webb presented grant requests for the Council's consideration.

**M 612 08
Community
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$7,000.00 from Mr. Dukes' Community Grant Account to the Nanticoke Senior Center, Inc. for operating expenses.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**M 613 08
Community
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$50.00 from Mr. Cole's Community Grant Account to the Delaware Chapter of the National MS Society for Mary Daisey Shockley's participation in the Bike to the Bay event.

Motion Adopted: 5 Yeas.

**(continued) Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

M 614 08 Community Grant A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$5,000.00 (\$2,500.00 each from Mr. Jones' and Mr. Rogers' Community Grant Accounts) to the Appel-Tucker Reynolds VFW Post #2931 for the construction of a new Post combining Georgetown and Ellendale.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

M 615 08 Community Grant A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$500.00 (\$100.00 from each Community Grant Account) to Kent – Sussex Industries for their calendar project.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

M 616 08 Community Grant A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$300.00 (\$100.00 each from Mr. Cole's, Mr. Jones', and Mr. Phillips' Community Grant Accounts) to the Sussex Central Soccer Boosters for uniforms, equipment, etc.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

M 617 08 Community Grant A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$250.00 from Mr. Jones' Community Grant Account to Delaware Hospice for their golf outing fundraiser.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;**

Mr. Rogers, Yea

M 618 08 **A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$300.00**
Community **from Mr. Rogers' Community Grant Account to the Ellendale U.M. Church**
Grant **to open a Soup Kitchen for the community.**

M 618 08 **Motion Adopted: 5 Yeas.**

(continued)

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
 Mr. Dukes, Yea; Mr. Jones, Yea;
 Mr. Rogers, Yea

M 619 08 **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$300.00**
Community **from Mr. Jones' Community Grant Account to the Georgetown Historical**
Grant **Society to sponsor their Civil War Living History Weekend.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
 Mr. Dukes, Yea; Mr. Jones, Yea;
 Mr. Rogers, Yea

M 620 08 **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$2,000.00**
Community **from Mr. Jones' Community Grant Account to the Town of Greenwood for**
Grant **Christmas lights.**

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
 Mr. Dukes, Yea; Mr. Jones, Yea;
 Mr. Rogers, Yea

Motion to **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to amend the**
Amend **Agenda by moving the Executive Session to the end of the meeting.**

Agenda/
Withdrawn **Mr. Cole and Mr. Phillips withdrew their Motions.**

M 621 08 **At 8:08 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Rogers, to**
Recess **recess the Regular Session and to go into Executive Session for the purpose**
Regular **of discussing land acquisition.**

Session/
Go **Motion Adopted: 5 Yeas.**

Into
Executive **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;**
Session **Mr. Dukes, Yea; Mr. Jones, Yea;**
 Mr. Rogers, Yea

Executive **At 8:09 p.m., an Executive Session of the Sussex County Council was held in**
Session **the Caucus Room of the Council Chambers for the purpose of discussing**
 land acquisition. The Executive Session concluded at 8:33 p.m.

M 622 08 **At 8:34 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Dukes, to**
Reconvene **come out of Executive Session and to reconvene the Regular Session.**

Regular
Session **Motion Adopted: 5 Yeas.**
M 622 08 **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;**
(continued) **Mr. Dukes, Yea; Mr. Jones, Yea;**
 Mr. Rogers, Yea

Introduction **Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE**
of Proposed **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**
Ordinances **AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE**
 BUILDING FOR APPLIANCES TO BE LOCATED ON A CERTAIN
 PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED,
 SUSSEX COUNTY, CONTAINING 3.3795 ACRES, MORE OR LESS”
 (Conditional Use No. 1815) filed on behalf of Gary Chorman.

Mr. Rogers introduced the Proposed Ordinance entitled “AN
ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR
MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MARINA WITH
RESTAURANT, RETAIL AND 4 MULTI-FAMILY DWELLING UNITS
TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY,
CONTAINING 0.84 ACRE, MORE OR LESS” (Conditional Use No. 1816)
filed on behalf of Andrew and Carol Walton.

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE
TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX
COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT AND A C-1
GENERAL COMMERCIAL DISTRICT TO A GR-RPC GENERAL
RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY
FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN
BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 58.55
ACRES, MORE OR LESS” (Change of Zone No. 1668) filed on behalf of CB
Twin Cedars, LLC.

Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE
TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX
COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT AND A C-1
GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL
RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING
AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY,
CONTAINING 5.79 ACRES, MORE OR LESS” (Change of Zone No. 1669)
filed on behalf of CB Twin Cedars, LLC.

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE
TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX
COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL
DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A CR-1

COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 15.8609 ACRES, MORE OR LESS” (Change of Zone No. 1670) filed on behalf of Nentego Properties, LLC.

**Introduction
of Proposed
Ordinances
(continued)**

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 13,500 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1671) filed on behalf of R. C. Carpets.

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 7.13 ACRES, MORE OR LESS” (Change of Zone No. 1672) filed on behalf of PGS Properties, LLC.

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.64 ACRE, MORE OR LESS” (Change of Zone No. 1673) filed on behalf of PGS Properties, LLC.

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 40,271 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1674) filed on behalf of Lee Repass.

The Proposed Ordinances will be advertised for Public Hearing.

There was no additional business.

The Public Hearings scheduled for 7:30 p.m. were held.

**Report
on
Public
Hearings**

Lawrence Lank, Director of Planning and Zoning, reported that the first two Public Hearings are applications filed on behalf of the same Applicant, Rodney W. Smith; that both applications affect the same parcel; and that Mr. Smith has requested that the two Public Hearings be combined. The Council agreed to the consolidation of the two Public Hearings.

**Public
Hearing
(C/Z 1649
and
C/U 1781)
Public
Hearing
(C/Z
No. 1649
and
C/U
No. 1781)
(continued)**

A Public Hearing was held on the Proposed Ordinances entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 39.73 ACRES, MORE OR LESS” (Change of Zone No. 1649) and “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 39.73 ACRES, MORE OR LESS” (Conditional Use No. 1781) filed on behalf of Rodney W. Smith.

The Planning and Zoning Commission held a Public Hearing on the two applications on August 14, 2008 at which time action was deferred.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 14, 2008.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

Mr. Lank reported that additional letters and emails have been received since August 14, 2008: a letter from Truman Mason in support of both applications, an email from Thomas Pemberton in support of both applications; and a fax from Leah Chandler in support of both applications.

Mr. Lank reported that the application has gone through the County’s MPHU application process for affordable housing units.

The Applicant provided copies of an Exhibit Book.

Preston Dyer, Consultant, and Mark Davidson of DC Group, were present on behalf of the Applicant. They stated that the conditional use application is an overlay for the commercial application with the implementation of a multi-family project encompassing 36 condo/flats and 88 townhouses; that the implementation of affordable housing units is a favorable addition to the application; that CR-1 zoning is proposed since the site is located in an Investment Level 1 Area according to the State Strategies for Spending Maps; that the mixed use intended complies with Investment Level 1; that higher density is encouraged in Investment Level 1 areas; that the project offers employment opportunities; that the State Strategies encourage affordable housing; that they are in compliance with the MPHU program; that the project creates a live and work environment; that they will be creating offices, retail, mini-storage and residential uses in the project; that the site is located in a Developing Area according to the County Comprehensive Plan Update adopted June 24, 2008; that the Town of Georgetown will be providing central water and sewer services to the

Public
Hearing
(C/Z
No. 1649
and
C/U
No. 1781)
(continued)

project; that the site is adjacent to the Department of Corrections - Sussex Correctional Institute, the Department of Motor Vehicles, DelDOT facilities, and the Church of God of Prophecy; that the Workman's Inc. letter in the Exhibit Booklet references the difficulty of farming the site due to traffic, dust complaints, and nuisance geese; that some of the other commercial uses that exist in the area include an electrician, sewer service company, deli, etc.; that the 36 condo/flats are proposed over the retail and offices space; that all parking is toward the interior, not Zoar Road; that a traffic circle is proposed in the center of the boulevard entrance road; that 88 townhouse units (fee simple) are proposed within 13 buildings; that one MPHU unit will be established within each building; that they are proposing mini-storage warehousing to the south of the site next to the prison since this portion of the site is impacted by the lighting from the prison; that a park is proposed to the north of the Church of God of Prophecy and south of the ditch and will include a tot lot; that a park is proposed in the middle of the commercial area for a gazebo and benches to serve the employees and patrons of the commercial retail area; that the site is proposed to contain 49% open space; that there are some wetlands within the McGee Tax Ditch; that a 25-foot wide maintenance easement for the tax ditch is on the Department of Motor Vehicles side and a 50-foot wide maintenance easement for the tax ditch exists on this parcel on the north; that a Traffic Impact Study was performed per DelDOT's specifications; that DelDOT has advised that certain road improvements, intersection improvements and traffic signal agreements will be required; that they will be required to dedicate additional rights-of-way to DelDOT; that bike lanes will be required; that multi-modal paths will be required; that sidewalks will be provided along the front of the property and in the interior of the project; that a bus shelter location is proposed near the entrance; that the existing drainage moves north toward the tax ditch; that the tax ditches are not intended to be altered; that the proposed ponds will be wet ponds; that the parking lots will contain some rain gardens; that 30-foot wide buffers will be provided; that they are planning on the reforestation of 1.5 acres next to the southerly buffer; that landscaping will include native species of plants; that the existing house on the farm is served with central water from the Town of Georgetown; that the closest manhole is near the Sussex County Arts and Science Academy; that there should be no negative impact on surrounding properties; that the surrounding uses and the close proximity to Georgetown make this application appropriate for rezoning and conditional use; that the site is located in a future annexation area for the Town of Georgetown; that the concept plan with the open space proposed creates a superior design; that the mixed use limits the number of vehicle trips; and that the commercial aspect of the project benefits the community.

There were no public comments and the Public Hearing was closed.

M 623 08
Defer
Action on

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Change of Zone No. 1649 and Conditional Use No. 1781, filed on behalf of Rodney W. Smith.

**C/Z 1649
and
C/U 1781**

Motion Adopted: 5 Yeas.

(continued)

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**Public
Hearing
(C/U
No. 1742)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION OF EXISTING MANUFACTURED HOME PARK/CAMPGROUND BY ADDING 24 CAMPSITES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS” (Conditional Use No. 1742) filed on behalf of Pine Acres, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on August 14, 2008 at which time action was deferred.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 14, 2008.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

George Harrison, Jr. was present on behalf of the application. He stated that they propose to develop the site with 24 campsites; that normally, at this time of year, the existing park is 100% full in the camping area; that they have a waiting list for space; that there are 202 manufactured home sites and over 300 campsites within the existing park (Leisure Point); that this expansion to the park will provide for electric, water and sewer connections; that the lots are larger than the lots within the existing park; that buffers will be fenced and landscaped; that the campsites will be at least 400 feet from any dwelling on lands owned by others; that access to the site will be gated on Dogwood Lane; and that the tenants will have key card access.

There were no public comments in support of the application.

Anthony Dirolano, Bonnie Degirolono, Alan Shelley (President of Long Neck Village Homeowners Association who was in attendance to represent the community), and Susan Moore spoke in opposition to the proposed expansion. They expressed concerns about the short time the posting was on the site; drainage, aesthetics, fencing; increased traffic; trespassing on an existing service road of other landowners; safety issues; fire hazards in the wooded areas; privacy and trespassing issues; and property values. They also questioned if people would occupy the homes year round or if the homes would be left vacant at times; they stated that they oppose unoccupied RVs

being left on the site. They noted that the project is surrounded by family farm areas.

There were no additional public comments and the Public Hearing was closed.

(continued) A Motion was made by Mr. Cole, seconded by Mr. Dukes, to defer action on Conditional Use No. 1742 filed on behalf of Pine Acres, Inc.

**M 624 08
Defer
Action
on C/U
No. 1742**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**Public
Hearing
(C/U
No. 1807)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PUBLIC UTILITIES (WATER AND WASTEWATER) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 13.228 ACRES, MORE OR LESS” (Conditional Use No. 1807) filed on behalf of Tidewater Environmental Services, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on August 14, 2008 at which time action was deferred.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 14, 2008.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

The Applicant provided copies of an Exhibit Book.

Bruce Patrick of Tidewater Environmental Services and Tidewater Utilities, Inc. was present with Eugene Bayard, Attorney; Zachary Crouch of Davis, Bowen & Friedel, Inc., Frank Kea of Frank M. Kea Communities, LLC, and Daniel String of Green Stone Engineering, LLC. They stated that the purpose of the application is to design, build, own and operate a regional water supply and storage facility and a wastewater treatment and disposal facility (Trussum Regional Water & Wastewater Treatment System); that the facility would allow Tidewater to serve the areas that are franchised to Tidewater and would offer Tidewater the opportunity to eliminate or provide service to existing septic systems in the area; that there are 1,233 septic systems in the general area as well as some community systems; that the proposed service area is outside of any sewer planning area or sewer district; that the proposed combined water and wastewater facility would be located on lands of Robert and Carolyn Truitt; that the site contains 13.23 acres of the Truitt property in the AR-1 District; that there are no wetlands within the 13.23

Public
Hearing
(C/U
No. 1807)
(continued)

acre portion of the parcel; that the use will be a public utility; that the site is located in an Investment Level 4 Area of the State Strategies Maps; that there is a need to provide services to the area and that some projects have already requested service; that they propose to serve those projects and future projects in the area; that no State funds are required; that there will be no school impacts; that along with the County, the State DNREC, the Public Service Commission, and the Office of Drinking Water have jurisdiction; that the developers of Briarwood Manor Mobile Home Community and the Sandy Ridge Residential Planned Community have expressed interest in service to eliminate septic systems and community systems; that the Trap Pond State Park has expressed an interest in future access to the system since the campground is on septic; that a TMDL analysis has been completed and that they will exceed the minimum requirements on the Nanticoke River Watershed established by DNREC; that they propose to discharge high quality water into Rapid Infiltration Basins; that they propose to build a plant within an agricultural style building; that the project will reduce nutrients and recharge water; that the basins are typically dry within one hour of treatment; that there should be no noise or odors from the site; that they are willing to show similar projects to the area residents; that there is a great supply of water in the area; that the water storage facility is required to provide storage of water for peak hour demand and fire protection; that they are proposing a 400,000 gallon elevated tank; that the tank will be painted sky neutral to blend in with the horizon; that the Office of Drinking Water supports this type of facility; that employees will visit both facilities on a daily basis and employees will be on call for emergencies at all times; that wells are sited and require an allocation permit from DNREC; that no one is required to hook-up to the systems; that hook-up will be voluntary; that if a septic fails, DNREC may require an individual to connect to the facility since DNREC does have a specified distance near a facility to require hook-up; that there are no municipal water or sewer services in the area; that suggested Findings of Fact and Conditions of Approval are included in the Exhibit Booklet; that the use is a public or semi-public use that requires a Conditional Use; that generators will be housed within the building or in enclosures next to the building; that chemicals are to be stored indoors; that chemicals are stored in double walled containers; that the facilities are located at least 500-feet from Trussum Pond Road; that they propose to be good neighbors and will landscape and/or fence the line adjoining adjacent home sites; and that the elevated water tower will serve 1,300 EDUs.

There were no public comments in support of the application.

The Commission found that Michael Lowe, Leonard Sears, Richard Roller, Wayne Jaegers, Ron Moore, Arvilene Moore and Phyllis Johnson spoke in opposition to the proposal and they expressed concern that this application may take away their ability to install new wells or septic systems; that they are concerned about odor; truck traffic; monitoring wells and abandonment of monitoring wells; sludge application of solid waste; septic pumping; impacts on wetlands; the view of an elevated water tower;

**Public
Hearing
(C/U
No. 1807)
(continued)**

depreciation of property values; that the system will have to be large and if there is a system overflow, there will be problems; that additional development will be approved since central water and sewer will be available; that the residents within Briarwood Manor are concerned about cost since 53% of the residents are senior citizens; that the leases for Briarwood Manor state that water and sewer will be provided by the owners; that Briarwood Manor does need central water due to contaminates in the existing system; that septic systems are failing in Briarwood Manor; that they question the fees for hooking up to the systems; that they question the impact on the stream behind the site, that they question the definition of a franchise; that they question if other sites were considered; that they question if plans have been submitted to the Office of Drinking Water. They expressed concern about the loss of the country atmosphere; the impact on wildlife in the area; that the State Office of Drinking Water still has no plans for Briarwood Manor; that they question Tidewater's plans for Briarwood Manor; that Briarwood Manor is presently within the guidelines for drinking water; that Briarwood Manor is currently working with DNREC to resolve septic issues with mound systems; that Tidewater has received a drinking water violation in Sandy Ridge that Tidewater is presently correcting; that Tidewater is still running water in ditches to bleed off total coliform bacteria from the area where they have had to chlorinate the system; that there is no major customer need for this facility and that they want the farmland and other areas to remain the same. Phyllis Johnson stated that they were not notified of the Public Hearings.

There were no additional comments and the Public Hearing was closed.

**M 625 08
Defer
Action on
C/U
No. 1807**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to defer action on Conditional Use No. 1807 filed on behalf of Tidewater Environmental Services, Inc.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**Discussion
of Possible
Ordinance
Changes**

The Council discussed possible changes to the County's Ordinance relating to the replacement of nonconforming accessory structures. Lawrence Lank, Director of Planning and Zoning, reported that there has been some interest expressed by constituents requesting that small accessory structures be allowed to be replaced at the same location with the same size structure rather than require a variance application through the Board of Adjustment. Mr. Lank referenced Sea Air Manufactured Home Community as an example.

The Council discussed possible changes to the County's Ordinance relating to the elimination of the 35 percent lot coverage requirement in

**Discussion
of Possible
Ordinance
Changes**

manufactured home communities. Mr. Lank advised the Council that there has also been some interest in the elimination of the 35 percent lot coverage requirement in manufactured home communities, since it is not required in any other district. The maximum 35 percent lot coverage requirement is only required in manufactured home communities. Mr. Lank stated comparisons between 4,000 square foot lots, 5,000 square foot lots and 10,000 square foot lots within single family residential subdivisions which do not reference the 35 percent lot coverage requirement; these subdivision lots could be in GR, MR and AR-1 Districts.

**Discussion
of Possible
Ordinance
Changes
(continued)**

Patricia Weyl, a tenant within Bay City Manufactured Home Community, requested and was granted permission to speak. Mrs. Weyl expressed concerns about existing conditions within Bay City, e.g. the high storm water runoff problems, no drainage required, elevations of lots being raised, permits being issued, that the project should be handled the same as the Sea Air moratorium requiring surveys with aerial map references, and opposing the elimination of the 35 percent lot coverage regulation.

The Council discussed both requests and deferred action to allow for further consideration.

**Action
Deferred**

The Council discussed a Draft Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99 AND 115 OF THE CODE OF SUSSEX COUNTY TO DEFINE OPEN SPACE AND TO INCORPORATE OPEN SPACE REQUIREMENTS INTO THE APPLICATION AND APPROVAL PROCESS IN ALL RESIDENTIAL ZONING DISTRICTS AND IN RESIDENTIAL PLANNED COMMUNITIES AND TO CLARIFY PROVISIONS RELATING TO RESUBDIVISION, PERMITTED USES, BONDS, SITE PLANS AND OTHER APPROVAL CRITERIA”. This Ordinance defines open space in both the subdivision and zoning ordinances and amends those portions of each ordinance as necessary to implement the provisions relating to open space for residential subdivisions or developments in all residential zoning districts. It was decided that the Draft Ordinance would be discussed at a future meeting for possible introduction.

**Discussion
of Draft
Ordinance
Relating
to an
Open
Space
Definition**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to adjourn at 11:30 p.m. Motion Adopted by Voice Vote.

**M 626 08
Adjourn**

Respectfully submitted,

Robin A. Griffith
Clerk of the Council