



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 18, 2007

**Call to
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 18, 2007 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

The meeting was opened with the Lord's Prayer and the Pledge of Allegiance.

**M 551 07
Amend
and
Approve
Agenda**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to amend the agenda by deleting the following under "Susan Webb, Finance Director":

Item #2 - "Introduction of a Proposed Ordinance" regarding the issuance of bonds for the construction and equipping of the Dagsboro-Frankford Sanitary Sewer District;

and to amend Item #3 to read as follows: "PUBLIC HEARING AND RESOLUTION APPROVING A WRITTEN AGREEMENT FOR FIREFIGHTING SERVICES WITH INDIAN RIVER VOLUNTEER FIRE COMPANY AND THE ISSUANCE OF CERTAIN BONDS BY INDIAN RIVER VOLUNTEER FIRE COMPANY";

and to delete the words "and Possible Introduction" in Items #3, #4, and #5 under County Administrator; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas

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

The Council agreed that Ordinances should not be discussed and introduced on the same day, in order to allow sufficient time for discussion before introduction.

**M 552 07
Approve
Minutes**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to approve the minutes of August 21, 2007.

Motion Adopted: 5 Yeas

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

**Corre-
spondence**

Mr. Griffin read the following correspondence:

GEORGETOWN LIONS CLUB.

RE: Note of appreciation for \$500.00 grant to provide eye glasses to the needy.

BUFFY PARKER, MRS. SUSSEX COUNTY 2007.

RE: Letter thanking Council for its support.

TOWN OF SELBYVILLE.

RE: Letter of appreciation for grant to be used for the Town baseball field.

DELAWARE SAFETY COUNCIL, INC.

RE: Letter in appreciation of \$1500.00 grant, along with a Certificate of Membership to the Delaware Safety Council.

SUSSEX CYCLISTS, INC.

RE: Letter thanking Council for \$1000.00 donation to the Bicycle Safety Program.

**Salvation
Army
Report**

Mr. Baker introduced Lt. Chas Engel and Lt. Debbie Engel from the Salvation Army in Seaford, who oversee the operations of the Salvation Army for Sussex County. Lt. Debbie Engel gave a power point presentation to share the history of the Salvation Army and the services it provides. She stated their mission is to preach the gospel and meet human needs without discrimination. Many of the programs offered by the The Salvation Army are free of charge and Lt. Engel requested the Council's financial support to assist with expenses incurred for their programs.

Susan Webb, County Finance Director, stated that consideration would be given to a Human Service Grant for their organization.

**U of D
Agricultural**

Mark Isaacs, of the University of Delaware College of Agriculture and Natural Resources, expressed his appreciation to the Council for its

Extension Program continued support. He stated that the Council's support allows the University to tailor programs specifically for Sussex County that are needed by our agriculture producers, public service entities, and our youth. He reported that some of the programs supported this year are 4-H Youth Development, Public Policy, Economic Development, Ag Production, and Safety Programs. County contributions also support poultry research, field crop research, and also allow Lasher Laboratory to continue its programs in poultry disease diagnostics, for which it is world renown.

U of D Agricultural Extension Program (Con't) Mr. Isaacs thanked the County for its support of the Extension Safety Program, which is a partnership between the State and the County, with the State funding 75%, and County funding 25%.

Mike Love, Extension Safety Specialist with the University of Delaware, stated that in the past the Safety Program has focused primarily on traffic safety in Kent and Sussex Counties with grant funding through Federal and State agencies. Mr. Love stated that the Safety Program will be expanded to promote safety in the workplace, to reach out to local families who have faced disaster, work on multi-cultural outreach, and will continue its efforts towards childhood injury prevention.

Mr. Phillips expressed concern regarding the lack of irrigation in Sussex County, stating that only 22% of Delaware's cropland is irrigated. He stated that he would like to see greater emphasis placed on research and development of irrigation systems that could potentially irrigate the remaining 78%.

The Council presented a check to Mr. Isaacs in the amount of \$138,098.00.

Discussion of Proposed Draft Ordinance Relating to Forested Buffers Mr. Baker presented a revised draft of the Ordinance relating to forested buffers and storm water management areas entitled: "AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, AND VI OF THE CODE OF SUSSEX COUNTY RELATING TO FORESTED AND/OR LANDSCAPED BUFFERS, SITE PLANS AND BONDING REQUIREMENTS AND TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE III TO ADD A PROVISION ALLOWING COUNCIL TO REQUIRE A FORESTED AND/OR LANDSCAPED BUFFER FOR CONDITIONAL USES AND RESIDENTIAL PLANNED COMMUNITIES OF SINGLE-FAMILY OR MULTI-FAMILY DWELLINGS".

Mr. Baker reported that, at the August 21, 2007 meeting, the Council discussed a different version of the draft ordinance and at that time decided to take comments and recommended changes under consideration and to defer introduction until a revised draft ordinance could be written. Mr. Baker stated that the intent of the revised draft of the ordinance is to clarify that forested buffers would be required on every boundary in a subdivision that is adjacent to lands used for agricultural purposes, and not just between the boundary and new residential lots.

Mr. Baker reviewed the revised draft ordinance and pointed out the additional verbage and requirements of a forested buffer, as previously discussed. He noted that the title of the draft ordinance had also been amended.

**Proposed
Draft
Ordinance/
Forested
Buffers
(Con't)**

Mr. Cole stated that that the draft ordinance should be amended to require a 30-foot buffer around all major subdivisions, even if they are not adjacent to agricultural lands.

The Council agreed to authorize Mr. Griffin to amend the draft ordinance to state that a 30-foot buffer will be required for all major subdivisions.

**Discussion
of
Proposed
Draft
Ordinance
Relating to
Enforce-
ment of
County
Obligations**

Mr. Baker presented a proposed draft ordinance entitled “AN ORDINANCE TO ADOPT CHAPTER 116, ENFORCEMENT OF COUNTY OBLIGATIONS, TO REQUIRE RESIDENTS AND PROPERTY OWNERS TO BE CURRENT IN THE PAYMENT OF TAXES AND OTHER COUNTY OBLIGATIONS AS A CONDITION PRECEDENT TO MAKING APPLICATION FOR AND RECEIVING COUNTY APPROVALS, SERVICES AND/OR PERMITS”.

This Amendment creates a “Clean Hands” policy that will require property owners to be free of all monetary obligations to the County prior to applying for a license, permit, approval or additional service from the County. Mr. Baker reported that with the recent addition of new software programs, staff at the permit counter now have the ability to determine if the applicant is current on property taxes, sewer and water fees, application and permit fees, and interest, penalties and court costs or attorney’s fees.

Mr. Cole stated that the draft ordinance should also state that applicants who have been determined to have zoning violations will not be issued permits or licenses. It was the consensus of the Council that zoning violations would not constitute denial of a permit or license and would, therefore, not be included in the ordinance.

No action was taken on the draft ordinance.

**Discussion
of
Proposed
Draft
Ordinance
Relating to
Lot Main-
tenance**

Mr. Baker presented a proposed draft ordinance entitled “AN ORDINANCE TO REPEAL CHAPTER 80, RELATING TO LOT MAINTENANCE AND TO AMEND CHAPTER 115, ZONING, ARTICLE XXV, SECTION 115-191 RELATING TO THE PARKING, STORING AND MAINTENANCE OF VEHICLES AND BOATS AND PROHIBITED GROWTHS AND ACCUMULATIONS ON NON-AGRICULTURAL LANDS, WASTE MATERIALS OUTSIDE COMMERCIAL PREMISES, ENFORCEMENT METHODS AND THE VIOLATIONS AND PENALTIES RESULTING THEREFROM”.

Mr. Baker stated that since Chapter 80, Lot Maintenance, under The Code of Sussex County, was previously enforced by the County Transfer Station

Division, which no longer exists, the draft ordinance repeals Chapter 80 in its entirety.

Proposed
Draft
Ordinance/
Lot Main-
tenance
(Con't)

Mr. Baker explained that the draft ordinance states that no more than 2 vehicles and/or 2 boats or other watercraft, which are either inoperable, dismantled, wrecked, or unlicensed would be allowed on a residential property, other than in an enclosed structure; no vehicle and/or boat or other watercraft shall be situated on a vacant and unimproved property; the Planning and Zoning Director, or his designee, will enforce the requirements; the County would notify property owner of corrective action and time period within which correction action must occur; violation notice would be delivered personally or sent by certified or first-class mail; if person fails to comply with notice of correction, fines will be assessed; antique or vintage cars will be exempt if housed in an enclosed building; vehicles, boats, or other watercraft not required to be licensed will be exempt.

Mr. Baker pointed out that the draft ordinance addresses overgrowth of grasses or weeds, accumulation of rubbish, trash, or waste material, which is unsightly or creates a potential fire or safety hazard. "Waste material" does not include firewood, compost piles, and building materials in good condition, topsoil, or fill dirt accumulated in an orderly fashion. If the person has been notified of a violation of the accumulation of any of the above materials and has not complied within 10 days, the County may have a third party remove any of the materials at the owner's expense. Any waste materials outside of commercial establishments must be placed in a metal or heavy-duty plastic container.

Mr. Cole stated that the number of unlicensed or inoperable vehicles or boats or other watercraft on a residential property should be reduced to a total of 2.

The draft ordinance will be placed on next week's agenda for introduction.

Adminis-
trator's
Report

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

1. Comprehensive Plan Update Meetings

Urban Research & Development Corporation, the County's land use consultant, will present a summary of a draft for the new Comprehensive Plan Update. Public meetings will be held on September 25, 2007, from 6:30 to 8:30 p.m. at the Rehoboth Beach Convention Center and September 26, 2007, from 6:30 – 8:30 p.m. at the Laurel Fire Company.

Employee
Benefits
Consulting
Proposal

Susan Webb, Finance Director, reported that, at the April 3, 2007 meeting, at which time the County renewed its Group Hospital Policy, the Council had some concerns regarding the overall costs of the Group Hospital Plan. It was the Council's desire to reduce the \$7 million cost to the County, while

insuring continued adequate health coverage to employees. At that time, the Council suggested that funds be included in the 2008 Fiscal Year Budget for a consultant to review the benefits of the current Group Hospital Plan, attempt to control the growth within the Plan, maintain a competitive benefits program for employees, and reduce or control the County's cost.

**Employee
Benefits
Consulting
Proposal
(Con't)**

Stephen Fallon, Director of Employee Benefits Practice, Insurance Buyer's Council, Inc., presented a proposal to the County in an effort to reduce its Group Hospital costs while continuing to maintain a competitive benefits program. Insurance Buyer's Council is an Independent Benefits Consulting firm specializing in managing costs, risks, and administration of insurance benefits. IBC has been the County's insurance consultant for 20 years and reviews the contracts and leases and offers insurance advice, as needed. Consultant fees for these services would be a maximum of \$25,725.00, which has been included in the 2008 Fiscal Year Budget.

Mr. Fallon distributed a copy of a Power Point presentation summarizing the County's objectives and how Insurance Buyers Council proposes to reach those objectives. Mr. Fallon stated that he would recommend a plan that would reduce costs to the County, yet would continue to allow employees to receive optimum benefits.

**M 553 07
Authorize
Review of
Group
Hospital
Benefits**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, that the Sussex County Council authorizes the firm of IBC to perform a review of the County's Group Hospital benefits at a maximum fee of \$25,725.00.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Indian River
Volunteer
Fire
Company/
Resolution
No.
R 023 07**

A Public Hearing was held on a Proposed Resolution entitled "APPROVAL OF A WRITTEN AGREEMENT FOR FIREFIGHTING SERVICES WITH INDIAN RIVER VOLUNTEER FIRE COMPANY AND THE ISSUANCE OF CERTAIN BONDS BY INDIAN RIVER VOLUNTEER FIRE COMPANY"

Mrs. Webb stated that the Indian River Volunteer Fire Company proposes to issue bonds in an amount up to \$450,000 to fund the acquisition of a new pumper fire truck. Mrs. Webb explained that in order for the interest on the Bonds to qualify for exclusion from gross income for federal tax purposes, the Indian River Volunteer Fire Company must enter into an Agreement with a government unit to approve the issuance of the Bonds.

Mr. Griffin, County Attorney, announced that the Public Hearing on this Resolution had been advertised.

Hal Salmons of Potter Anderson & Corroon was present on behalf of the

Public Hearing/ IRVFC/ Resolution No. R 023 07 (continued)	<p>Indian River Volunteer Fire Company and the Wilmington Savings Fund Society to request the County's approval for the fire company to issue Bonds for the purchase of a new fire truck. Mr. Salmons stated that 1996 changes in the tax laws now require a governmental agency to assist volunteer fire companies in getting a favorable tax exempt rate. The Council's approval will allow the fire company to borrow money at a lower rate of interest. Mr. Salmons pointed out that this would be a debt of the fire company's, not the County's, and that the bonds would not be guaranteed by the County.</p> <p>Members of the Indian River Volunteer Fire Company, were present to request Council's approval for the bond issuance.</p> <p>The Council found that there were no other parties present in support of or in opposition to the issuance of bonds by the Indian River Volunteer Fire Company.</p> <p>There were no other public comments and the Public Hearing was closed.</p>
M 554 07 Approve R 023 07	<p>A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council approves Resolution No. R 023 07 entitled "RESOLUTION APPROVING A WRITTEN AGREEMENT FOR FIREFIGHTING SERVICES WITH INDIAN RIVER VOLUNTEER FIRE COMPANY AND THE ISSUANCE OF CERTAIN BONDS BY INDIAN RIVER VOLUNTEER FIRE COMPANY.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes</p>
Wastewater Agreement	<p>Mr. Godwin presented a wastewater agreement for the Council's consideration.</p>
M 555 07 Wastewater Agreement/ The Woodlands of Pepper Creek	<p>A Motion was made by Mr. Rogers, seconded by Mr. Cole, that based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 666, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and H.K.S., L.L.C., for wastewater facilities to be constructed at the Woodlands of Pepper's Creek, located in the Dagsboro/Frankford Sanitary Sewer District.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea. Mr. Dukes, Yea</p>

**Local Law
Enforce-
ment Grant
Requests**

Mr. Godwin presented the following requests for funding through the Local Law Enforcement Grant Program:

**Grant
Requests
(continued)**

- | | | |
|---------------|-------------|---------------------------------|
| • Milford | \$ 2,496.00 | Honda Generator for Crime Van |
| • Seaford | 21,940.00 | 2008 Dodge Durango |
| • Ocean View | 7,490.00 | Police Fitness Center Equipment |
| • Ellendale | 12,500.00 | Salaries |
| • Lewes | 4,290.21 | Radio & Gun Cases |
| • So. Bethany | 25,000.00 | Equipment; Vehicle |
| • Laurel | 25,000.00 | 2008 Dodge Charger |

**M 556 07
Approve
Local Law
Enforce-
ment Grants**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to approve the Local Law Enforcement Grant Requests, as presented.

Motion Adopted: 5 Yeas.

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

**Lease
Renewal**

Glenn Luedtke, Director of EMS, presented a proposal for a lease renewal of Paramedic Station No. 106.

**M 557 07
Approve
Lease
Renewal/
Paramedic
Station
No.
106**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to approve the renewal of the Lease Agreement between the Mid Sussex Rescue Squad, Inc. and Sussex County, Delaware, for the use of a portion of their building as described therein by Sussex County EMS as Paramedic Station 106.

Motion Adopted: 5 Yeas.

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

**Engineering
Vehicles/
Bid Results**

Frank Shade, Purchasing Director, presented bid results for the purchase of one 4x4 pickup truck for the Engineering Department to be used at the Treatment Facilities. Bids were received from two vendors, however, the lower bidder did not meet bid specifications.

**M 558 07
Award Bid/
Engineering
Vehicle**

A Motion was made by Mr. Cole, seconded by Mr. Jones, that the Sussex County Council accepts the bid of I.G. Burton Chevrolet in the amount of \$30,597.00 for one 4x4 pickup truck.

Motion Adopted: 5 Yeas.

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

**Engineering
Vehicles/
Bid Results**

Mr. Shade presented bid results for the following vehicles for the Engineering Department to be used at the Treatment Facilities:

**Bid Results/
(Con't)**

I.G. Burton (1) One-ton extended cab HD truck \$ 50,993.00

I.G. Burton (1) One-ton crew cab pick up truck 37,769.00

I.G. Burton (1) One-ton cargo van 29,086.00

Mr. Shade reported that only one bid was received for each of the vehicles listed.

M 559 07

**Award
Bids/
Engineering
Vehicles**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, that the Sussex County Council accepts the bids of I.G. Burton Chevrolet for the following:

- (1) One-ton extended cab HD truck \$ 50,993.00
- (1) One-ton crew cab pick up truck \$ 37,769.00
- (1) One-ton cargo van \$ 29,086.00

Motion Adopted: 5 Yeas.

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

**Public
Hearing
on Appeal
of
Lacrosse
Homes of
Delaware,
Inc.**

Shane Abbott, Assistant Director of Planning and Zoning, stated that the application for Lacrosse Homes of Delaware, Inc. was denied by the Planning and Zoning Commission and an Appeal Hearing was granted by the Council.

Mr. Abbott stated that in the past, adjoining property owners were notified of Public Hearings on appeals; however, adjoining property owners were not notified of the Public Hearing scheduled on this date.

The Council found that no one was present in support of or in opposition to the application of Lacrosse Homes of Delaware, Inc.

M 560 07

**Defer
Action/
Lacrosse
Homes of
Delaware,
Inc.**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to defer action on the application of Lacrosse Homes of Delaware, Inc., Subdivision #2006-10, to readvertise the Public Hearing, and to properly notify the applicant and adjoining property owners within 200 feet.

Motion Adopted: 4 Yeas; 1 Abstention.

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

**Public
Hearing
on Appeal
of Rajun-**

Shane Abbott, Assistant Director of Planning and Zoning, stated that the application for Rajun-Cajun Homes was denied by the Planning and Zoning Commission and an Appeal Hearing was granted by the Council.

**Cajun
Homes**

Mr. Abbott stated that the adjoining property owners were not notified of the Public Hearing on this date.

The Council found that no one was present in support of or in opposition to the application of Rajun Cajun Homes, L.L.C.

**M 561 07
Defer
Action/
Rajun
Cajun
Homes,
LLC**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to defer action on the application of Rajun Cajun Homes, L.L.C., Subdivision 2006-11, to readvertise the Public Hearing, and to properly notify the applicant and adjoining property owners within 200 feet.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Piney Neck
Expansion/
Dagsboro-
Frankford
SSD**

A Public Hearing was held to consider extending the Dagsboro – Frankford Sanitary Sewer District (DFSSD) to include all those certain lots, pieces or parcels of land, situated northerly and southerly of County Road 336, Piney Neck Road, and located on the Piney Neck Peninsula and in the Town of Dagsboro (the Piney Neck Expansion of the Dagsboro – Frankford Sanitary Sewer District).

The original Public Hearing for the proposed expansion was held on July 31, 2007; due to public comments and questions from area residents at that time, the Council deferred action until August 14, 2007. Mr. Ashman reported that as a result of the deferment, the Engineering Department exceeded the time allotted by State Law for the Council to adopt a Resolution establishing the District expansion (within 30 days of posting). Mr. Ashman stated that notices were re-posted and re-advertised and that no additional comments have been received.

Craig Phillips, whose property is adjacent to the proposed development, requested to be included in the Piney Neck Expansion; he stated that he had been advised by the developer that he would be connected to the sewer system obtained by the developer, at no cost to him, and he questioned if he would still be connected at no cost. Mr. Ashman stated that Mr. Phillips' property is currently excluded from the proposed expansion. Michael Izzo, County Engineer, stated that the County could specify that a lateral be extended to the property to allow for future connection; however, it was explained to Mr. Phillips that he would be required to connect within one year and would be responsible for all associated fees. Mr. Phillips stated that he is currently undecided if he wants to be included in the sewer district. Mr. Griffin advised that he would need to let the County know of his decision by September 25, 2007, prior to the next Council meeting.

Jan Thompson, a resident whose property is located within the sewer

district approximately one-half mile from the main road, questioned if she would have to pay additional charges for the right-of-way. Mr. Izzo stated that a connection point would be provided, but because the properties in question are so remote, they would not be required to connect.

Dan Kramer stated that he is not in favor of sewer districts.

**Public
Hearing/
Piney Neck
Expansion
(continued)**

Mark Chura of Ocean Atlantic Associates was present on behalf of HKS, L.L.C. He requested a deferral of the Piney Neck Expansion of the Dagsboro-Frankford Sanitary Sewer System until such time as current technical and financial details can be worked through. He stated that he has been working closely with the County Engineering Department and anticipates being able to advise the Council next week as to whether or not HKS, L.L.C. would be willing to proceed with the proposed agreement with the County at this time.

Howard Fortunato of The GST Group was present. He also requested deferral of the Council's action on the Piney Neck Expansion. He stated that he would advise the County at or prior to the next Council meeting as to whether or not his group will be willing to proceed with the expansion.

There were no additional public comments.

**M 562 07
Defer Action
Piney Neck
Expansion
of the
Dagsboro-
Frankford
SSD**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to leave the record open and defer action on the Public Hearing on the Piney Neck Expansion of the Dagsboro-Frankford Sanitary Sewer District until September 25, 2007.

Motion Adopted: 5 Yeas.

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

**South
Coastal
Regional
Wastewater
Facilities/
Expansion
No. 2**

Mr. Izzo reported that the construction contract with C. O. Falter for the South Coastal Regional Wastewater Facilities Treatment Plant expired on January 18, 2007. He reported that construction has not yet been completed and that the estimated completion date is October 15, 2007, which is 288 days beyond the original contract date. C. O. Falter is being charged \$1,000 a day for being over schedule as per the contract's penalty clause. Mr. Izzo stated that due to the extended construction time, the contract with Stearns & Wheler, L.L.C., Consulting Engineers for the County, who continues to inspect the construction, must also be extended.

**M 563 07
Approve
Contract
Amendment
for
SCRWF**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that based upon the recommendation of the County Engineering Department, Amendment #9 to the Agreement with Stearns & Wheler, L.L.C. be approved to provide additional construction phase engineering services to accommodate the construction schedule overrun by the C.O. Falter

Treatment Upgrade No. 2 **Construction Company for the South Coastal Regional Wastewater Facilities Treatment Upgrade No. 2 at a cost not to exceed \$270,866.00.**

Motion Adopted: 5 Yeas.

**Vote
(Con't)**

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

**White
Creek
Manor**

Michael Izzo, County Engineer, presented a balancing Change Order to the White Creek Manor Sewer Contract No. 05-06 for the Millville Sanitary Sewer District, which decreases the contract by \$47,628.66.

**M 564 07
Approve
Change
Order/
White
Creeks
Manor**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, that based upon the recommendation of the Sussex County Engineering Department and its Consultant, Whitman, Requardt and Associates, that the balancing change order for Sussex County Project No. 05-06, Whites Creek Manor and County Road 350, be approved, which decreases the contract amount by \$47,628.66 for a new contract total of \$3,194,976.34.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Cole was out of the room during the vote.

**SCRWF/
Change
Order**

Douglas Stewart, Project Engineer, presented Change Order No. 5 to the South Coastal Regional Wastewater Facilities Project to replace two walkway support beams.

**M 565 07
Approve
Change
Order
No. 5/
SCRWF**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, that based upon the recommendation of the County's Consulting Engineer, Stearns & Wheler, L.L.C. and the Sussex County Engineering Department, that Change Order No. 5 for Sussex County Contract No. 02-12-B, South Coastal Regional Wastewater Facilities Treatment Upgrade No. 2 with C.O. Falter Construction Corporation be approved in the amount of \$12,144.00, which increases the contract total amount, including previously approved Change Order Nos. 1, 2, 3, and 4 from \$15,257,504.67 to \$15,269,648.67, contingent upon the approvals of the U.S. Department of Agriculture, Rural Development, and the Financial Assistance Branch, Delaware Department of Natural Resources and Environmental Control.

Motion Adopted: 4 Yeas, 1 Absent.

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

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

Mr. Cole was out of the room during the vote.

**EOC
Project
M 566 07
Approve
C/O - EOC
Building
Project**

Bob Jones, Project Engineer, presented Change Order No. 13 to the Emergency Operations Center Building project.

A Motion was made by Mr. Rogers, seconded by Mr. Jones, that based upon the recommendation of the Sussex County Engineering Department and its Consultant, L. Robert Kimball and Associates, that Change Order No. 13 for Sussex County Project #04-02, Emergency Operations Center Building, be approved, which decreases the contract amount by \$20,953.28 for a new total of \$7,212,214.02.

Motion Adopted: 5 Yeas.

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

**SCRWF/
C/O**

Mr. Jones, Project Engineer, presented Change Order No. 2 for the SCRWF Upgrade No. 2 Personnel Facilities for a credit of \$759.97.

**M 567 07
Approve
Change
Order No. 2/
SCRWF**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department and its Consultant, Stearns & Wheler, L.L.C., that Change Order No. 2 to Sussex County Project No. 05-07, South Coastal Regional Wastewater Facility Upgrade No. 2 Personnel Facilities be approved, which decreases the contract amount by \$759.97 for a new total of \$3,688,152.74.

Motion Adopted: 5 Yeas.

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

**Captains
Grant
Expansion
OOSD/
Request to
Prepare
and Post
Notices**

John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Captains Grant Expansion of the Oak Orchard Sanitary Sewer District. He reported that the Council had initially elected to include Captains Grant in the first expansion; however, a letter was received by the Captains Grant Homeowners' Association stating that they did not wish to be included. There was no support at the Public Hearing for the inclusion of Captains Grant and the Engineering Department recommended to the Council that Captains Grant be removed from the proposed expansion. Mr. Ashman stated that, since that time, several letters have been received from the property owners requesting that Captains Grant be included in the expansion.

**M 568 07
Authorize**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex

**Posting of
Notices/
OOSD/
Captains
Grant** **County Engineering Department is authorized to prepare and post notices for the extension of the Oak Orchard Sanitary Sewer District boundaries to include the subdivision known as Captain's Grant.**

Motion Adopted: 4 Yeas, 1 Absent.

**Vote/
(Con't)** **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
 Mr. Rogers, Absent; Mr. Jones, Yea;
 Mr. Dukes, Yea**

Mr. Rogers was out of the room during the vote.

**Grant
Requests** **Susan Webb, Finance Director, presented grant requests for the Council's consideration.**

**M 569 07
Community
Reinvest-
ment
Grant** **A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$2,500.00 (\$500 from each Community Reinvestment Account) to the Overfalls Maritime Museum Foundation to be used for the preservation of the "Overfalls" lightship.**

Motion Adopted: 5 Yeas.

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

**M 570 07
Council-
manic
Grant** **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$250.00 from Mr. Phillips' Councilmanic Grant Account to Indian River High School to support Alyssa Murray's cheerleading performance at the Orange Bowl.**

Motion Adopted: 5 Yeas.

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

**M 571 07
Council-
manic
Grant** **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$250.00 from Mr. Phillips' Councilmanic Grant Account to Delmarva Christian High School to support Rachel Lins' attendance at the National Youth Leadership Forum on Law in Washington, D.C.**

Motion Adopted: 5 Yeas.

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

M 572 07

Community Reinvestment Grant **A Motion was made by Mr. Rogers, seconded by Phillips, to give \$2,000.00 from Mr. Rogers' Community Reinvestment Grant Account to the Historic Lewes Cat Society.**

Motion Adopted: 5 Yeas.

Vote/ (Con't) **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
 Mr. Rogers, Yea; Mr. Jones, Yea;
 Mr. Dukes, Yea**

Introduction of Proposed Ordinance **Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.2003 ACRES, MORE OR LESS" (Conditional Use No. 1767) filed on behalf of Advanced Fiberglass Tech.**

Introduction of Proposed Ordinance **Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 41,244 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1769) filed on behalf of Thomas Kucharik.**

Introduction of Proposed Ordinance **Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 53.32-ACRE BORROW PIT EXPANSION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 94.89 ACRES, MORE OR LESS" (Conditional Use No. 1770) filed on behalf of Stockley Materials, LLC.**

Introduction of Proposed Ordinance **Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MINI-STORAGE UNITS AND BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.449 ACRES, MORE OR LESS" (Conditional use No. 1771) filed on behalf of Harry Murphy.**

Introduction of Proposed Ordinance **Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL 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 5,000 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1628) filed on behalf of Richard J. Poppleton.

**Introduction
of Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL 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 16.02 ACRES, MORE OR LESS” (Change of Zone No. 1629) filed on behalf of William Warrington.

**Introduction
of Proposed
Ordinance**

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A ONE-OPERATOR TRUCKING COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.76 ACRE, MORE OR LESS” (Conditional Use No. 1768) filed on behalf of Michael J. Shuhart.

The Proposed Ordinances will be advertised for Public Hearing.

**M 573 07
Recess**

At 12:50 p.m. a Motion was made by Mr. Jones, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

Mr. Dukes called the Council back into session at 12:55 p.m.

**M 574 07
Authorize
Executive
Session**

At 12:56 p.m. a Motion was made by Mr. Cole, seconded by Mr. Jones, to authorize Council to go into Executive Session for the purpose of discussing property acquisition.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 12:57 p.m. an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers for the purpose of discussing land acquisition. The Executive Session concluded at 1:25 p.m.

**M 575 07
Return to
Regular
Session**

At 1:26 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Phillips, to come out of Executive Session and return to Regular Session.

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(C/U
No. 1760)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR A PRODUCE AND LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.508 ACRES, MORE OR LESS” (Conditional Use No. 1760) filed on behalf of Francis B. Prekup, Jr.

The Planning and Zoning Commission held a Public Hearing on this application on August 23, 2007, at which time the Commission recommended that the application be approved with conditions.

(See the minutes of the August 23, 2007 meeting of the Planning and Zoning Commission for additional information on the application, correspondence received, the Public Hearing before the Commission and the Commission’s recommendation of approval).

Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

Mr. Abbott stated that DelDOT has reviewed the revised preliminary site plan and is requiring Mr. Prekup to remove two of the four entrances on Route 16.

The Council found that Frank Prekup was present on behalf of the application. Mr. Prekup stated that one of the entrances that DelDOT is requiring him to close is the main entrance to the property, which would allow customers to continue to drive onto the property, thus avoiding having to park along Route 16. Mr. Prekup has expressed his safety concern to Mr. Fiori of DelDOT. Mr. Prekup also stated that one of the entrances to his property is a private road on Slim Street, which the owners could close at any time, if they so desire. He stated that he is willing to fully comply with the seven conditions recommended by the Planning and Zoning Commission.

Mr. Rogers pointed out to Mr. Prekup that he could sell only those items mentioned in the conditions. Mr. Griffin advised that should he wish to expand the produce business in the future, he would have to request an amendment to his conditional use application.

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

M 576 07
Adopt
Ordinance
No. 1932
(C/U
No. 1760)
M 576 07
(continued)

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1932 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR-GENERAL RESIDENTIAL DISTRICT FOR A PRODUCE AND LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSEX COUNTY, CONTAINING 1.508 ACRES, MORE OR LESS” (Conditional Use No. 1760) filed on behalf of Francis B. Prekup, Jr. with the following conditions:

1. The use shall be limited to the sale of produce, firewood, landscaping materials and birdhouses.
2. There shall be only one unlighted sign on the property, not to exceed 32 square feet in size. One sign shall also be allowed on the building.
3. Hours of operation shall be Monday through Friday 8:00 a.m. to 4:00 p.m., Saturday 8:00 a.m. to 12:00 p.m., and only produce sales on Sunday from 8:00 a.m. to 4:00 p.m.
4. No more than two (2) employees shall work at the site.
5. Restroom facilities shall be in the existing dwelling. There shall not be any portable toilets on the property.
6. All entrances shall be subject to DelDOT’s approval.
7. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

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

Public
Hearing/
Proposed
Ordinance
Relating
to Illegal
Signs

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND SECTION 115-160 OF THE CODE OF SUSSEX COUNTY WITH RESPECT TO ILLEGAL SIGNS”.

Bud Rickard, Operations Coordinator for Planning and Zoning, explained that the amendment would allow the County to remove signs that are in violation of the County’s current Sign Ordinance. Mr. Rickard explained that a \$25.00 fee per sign would be charged to either the owner of the sign or the property owner. The sign would be maintained for 30 days, during which time it may be retrieved for an additional fee of \$15.00.

Mr. Griffin explained that, presently, a letter is sent to the sign owner allowing 30 days for the removal of a sign that is in violation of the current ordinance. He stated that the proposed amendment would allow County inspectors to remove the sign from the property, store it for up to 30 days, and then discard it after 30 days if it has not been retrieved.

Mr. Dukes stated he is not in favor of the Proposed Ordinance, as he does not feel that the County should be allowed to trespass on private property to

remove signs.

Public comments were heard.

Dan Kramer stated that no one should come on private property to either place or remove signs.

Public
Hearing
(continued)

Rich Collins stated that those responsible for putting out signs advertising new subdivisions and open houses feel that the signs do have an impact on the real estate market. He stated that the property owner should not be fined for signs placed on his property. Mr. Collins stated that New Castle County has a similar ordinance, but does exempt “open house” signs. He suggested that the County allow the signs to remain for 48 hours, over a weekend, and then remove them.

Ruth Briggs King, Executive Vice President of the Sussex County Association of Realtors, expressed concern with the proposal which would allow constables and/or inspectors to go on private property to remove signs. She stated that she believes if the people placing the signs are made aware of the County’s regulations, that they would comply. Mrs. King suggested that the County should enforce the current Ordinance, rather than modify it.

Lit Dryden stated that there should be no discrimination and that all signs in violation of the Ordinance should be removed.

Mr. Griffin read a letter from Preston Dyer regarding the Council’s Ordinance banning signs and he requested that the Council consider allowing the signs to remain through the weekend and remove them on Monday morning, which would allow buyer traffic to utilize the advertisement opportunity.

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

It was the consensus of the Council to take the Proposed Ordinance under further consideration.

M 577 07
Defer
Action
on the
Proposed
Ordinance
Relating
to Illegal
Signs

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND SECTION 115-160 OF THE CODE OF SUSSEX COUNTY WITH RESPECT TO ILLEGAL SIGNS”.

Motion Adopted: 5 Yeas.

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

M 578 07
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to adjourn the meeting at 2:55 p.m.

Respectfully Submitted,

**Gaye King
Administrative Secretary**