



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 19, 2006

**Call to
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 19, 2006 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Lynn J. Rogers	President
Dale R. Dukes	Vice President
George B. Cole	Member
Finley B. Jones, Jr.	Member
Vance Phillips	Member
Robert Stickels	County Administrator
David Baker	Finance Director
James D. Griffin	County Attorney

**M 631 06
Approve
Agenda**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to amend the Agenda by deleting the following:

“Comprehensive Land Use Plan Contract Recommendation”

and, to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

**M 632 06
Approve
Minutes**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to approve the minutes of August 15, 2006.

Motion Adopted: 5 Yea.

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

Corre-

Mr. Griffin read the following correspondence:

spondence

EMILY YARNALL, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of the funding granted by the Council for senior transportation.

GIRL SCOUTS, MILLSBORO, DELAWARE.

RE: Letter in appreciation of Council's funding and an invitation to attend the Girl Scout Award Ceremony on October 12, 2006.

**Corre-
spondence
(continued)**

LYNDA TARBURTON, CO-DIRECTOR, MILFORD SENIOR CENTER, MILFORD, DELAWARE.

RE: Letter in appreciation of the funding granted by the Council for senior transportation.

CHEER CENTER, LONG NECK, DELAWARE.

RE: Letter in appreciation of the funding granted by the Council for senior transportation.

READ ALOUD DELAWARE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council's contribution.

BOYS & GIRLS CLUB OF DELAWARE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of the Council's grant in support of the Boys & Girls Club of Georgetown and Milford.

GREGORY J. FERRESE, CITY MANAGER, CITY OF REHOBOTH BEACH, REHOBOTH BEACH, DELAWARE.

RE: Letter to Councilman Jones in appreciation of his grant for the July 4th fireworks.

RIVER OF LIFE CHRISTIAN CENTER, GREENWOOD, DELAWARE.

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

WOODLAND FERRY ASSOCIATION, WOODLAND, DELAWARE.

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

**Weekly
Report
to Council**

Mr. Baker read the following information in his Weekly Report to Council:

1. Beneficial Acceptance

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

- Jim - Lee Park, Agreement No. 369, was granted Beneficial Acceptance on September 5, 2006. The developer is Jim Lee, Inc., and the project is located on Honolulu Road in the Dagsboro/Frankford Sanitary Sewer District Planning Area, consisting of 11 mobile homes.**
- Bay Crossing - Phase 3A, Agreement No. 445, was granted**

Beneficial Acceptance on September 11, 2006. The developer is Pulte Homes and the project is located on Route 1, approximately 1,000 feet south of County Road 268, in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 22 single-family lots.

**Weekly
Report
to Council
(continued)**

- **Gallo Medical Offices, Agreement No. 404, was granted Beneficial Acceptance on September 13, 2006. The developer is Prudential Gallo Realtors and the project is located approximately 380 feet southwest of the intersection of Clay Road and Kings Highway in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of two office buildings.**
- **Oak Creek - Phase 1, Agreement No. 387, was granted Beneficial Acceptance on September 14, 2006. The developer is Card, L.L.C., and the project is located on Old Landing Road (County Road 274) in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 68 single-family lots.**
- **Warrington Creek - Phase 1B, Agreement No. 378-1, was granted Beneficial Acceptance on September 15, 2006. The developer is M/I Homes of DC, L.L.C., and the project is located on the southeast side of Old Landing Road in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 68 townhouse units.**

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

2. Airport Committee

The next regularly scheduled meeting of the Sussex County Airport Committee will be held on Wednesday, October 4, 2006, at the Sussex County West Administrative Complex, 22215 DuPont Highway, Georgetown, Delaware, starting at 6:00 p.m. The media as well as the general public is welcome to attend the meeting.

3. Wings & Wheels Fly-In and Car Show

The Sussex County Airport will once again play host to this year's Third Annual Wings & Wheels Fly-In and Car Show on Saturday, October 14, 2006, from 8:00 a.m. to 6:00 p.m. The daylong event will feature antique cars and vintage aircraft, including the P-51 Mustang, P-40 Warhawk, and the B-25J Mitchell Bomber, among others. Airplane rides will be available and there will be flying formation demonstrations, as well as a judged car show. Admission

to the event is free, but donations are welcomed and will benefit the Delaware Aviation Museum. In case of rain, the event will be held Sunday, October 15. For more information, call 302-855-2355.

Bid Results Frank Shade, Purchasing Officer and Fleet Manager, reported on the bid results received on two (2) Chevrolet Suburbans:

Bid Results/ I G. Burton \$37,385.00 each

EMS Hertrich Fleet Services \$35,794.00 each

Vehicles (This bid did not meet the required specifications.)

(continued)

Mr. Shade advised that the vehicles are needed by Sussex County paramedics.

M 633 06 Award Bid/ EMS Vehicles A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council accepts the bid of I. G. Burton in the amount of \$37,385.00 per unit for the purchase of two (2) Chevrolet Suburbans for use by the Paramedic Department.

Motion Adopted: 5 Yea.

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

Sublease/ Office & Hangar Space/ Sussex County Airport Steve Masten, Director of Economic Development, presented information on a prospective tenant at the Airport. Mr. Masten introduced Howard Gant, Program Director for Christiana Care LifeNet. He stated that LifeNet is asking for the Council's approval of a sub-lease between Georgetown Air Services, LLC and Christiana Care LifeNet.

Mr. Gant gave a power point presentation to explain the Christiana Care LifeNet Program. He discussed the future opportunities for the placement of aircraft at the Sussex County Airport and their need for establishing a base of operations in Georgetown/Sussex County. He stated that the impact of having an air-medical service at Sussex County Airport could be significant; that they anticipate 400 flights in their first year of operation; that at 400 flights per year, they would envision purchasing 30,000 gallons of Jet-A fuel; that they plan on creating 15 new jobs and they would be looking to fill the majority of these positions locally; that they would be centrally located within the County and therefore, would be able to provide quick response to EMS units and back-up to the Delaware State Police; and that, pending the Council's approval, they expect to begin operations on October 23rd.

Mr. Masten explained that the term of the lease would be on a year to year basis unless either party advises, in writing, at least sixty (60) days prior to

the end of the sublease that they do not wish to renew. Further, no assignments or subletting are permitted with the lease between Georgetown Air Services and LifeNet. The sub-lease, upon approval, shall contain the necessary insurance requirements and language as required by the County before execution of the approved sublease agreement.

M 634 06
Approve
Sublease/
LifeNet

A Motion was made by Mr. Jones, seconded by Mr. Dukes, that the Sussex County Council approves a Sublease for office space between Georgetown Air Services, LLC and LifeNet; the term of the lease shall be on a year to year basis unless either party advises, in writing, at least sixty (60) days prior to the end of the sub-lease that either party does not wish to renew.

Motion Adopted: 5 Yea.

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

Grant
Requests

Susan Webb, Director of Accounting, presented grant requests for the Council's consideration.

M 635 06
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$75.00 from Mr. Cole's Councilmanic Grant Account to the Indian River Volunteer Fire Company, Inc. (IRVFC) for their Basket Bingo Fundraiser.

Motion Adopted: 5 Yea.

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

M 636 06
Community
Investment
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$5,000 from Mr. Rogers' Community Investment Grant Account to Lewes Canalfont Park for their park construction project.

Motion Adopted: 5 Yea.

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

M 637 06
Community
Investment
Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$2,500.00 from Mr. Cole's Community Investment Grant Account to the Indian River Senior Center, Inc. for building construction costs.

Motion Adopted: 5 Yea.

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

M 638 06 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give
Community \$10,000.00 from Mr. Dukes' Community Investment Grant Account to the
Investment Town of Blades for their Community Hall remodeling project.
Grant

M 638 06 Motion Adopted: 5 Yea.
(continued)

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

Suspend Mr. Stickels asked, and the Council agreed, to suspend the rules to allow
Rules Eddie Sparpaglione, Director of Information Systems, to give a
demonstration on the audio archiving of Council meetings.

Public Mr. Sparpaglione gave a power point presentation, which included
Meetings/ instructions on how to access the audio files of the County Council,
Audio Planning and Zoning Commission, and Board of Adjustment meetings. It
Archives was noted that the files can be accessed on the Homepage of the County's
website (www.sussexcountydela.gov) via the "e-gov" feature; a temporary
link is also provided on the main page of the County's website.

It was the consensus of the Council that the audio files should remain
available in perpetuity.

Mr. Cole raised the idea of the Councilmembers having access to
computers/laptops during the meetings, which would reduce paperwork
and save money in copying and postage costs.

Public A Public Hearing was held on an appeal of the Sussex County Planning &
Hearing/ Zoning Commission's decision to deny Subdivision Application No. 2005-12,
Appeal of an application of Lacrosse Homes of Delaware, Inc., for the subdivision of
Lacrosse land in an AR-1 Agricultural Residential District in Cedar Creek Hundred,
Homes of Sussex County, by dividing 175.07 acres into 350 lots (cluster development),
Delaware located at the northeast corner of the intersection of Road 227 and Road
(Hayfield) 229B and east of Road 229 (the Hayfield subdivision).

James Fuqua, Attorney, was present with John Dixon and Kim Burke on
behalf of Lacrosse Homes of Delaware and Zach Crouch of Davis, Bowen &
Friedel.

Mr. Fuqua stated that on March 9, 2006, the Hayfield subdivision
application was denied by the Planning and Zoning Commission. That
decision was appealed to the Council as permitted under the County's
subdivision ordinance. Mr. Fuqua stated that they are requesting that the
Council reverse the denial and to approve the Hayfield subdivision

application.

Mr. Fuqua stated that, in his opinion, the evidence presented and the applicable law were not the reasons that the Hayfield application was denied.

**Public
Hearing/
Appeal of
Lacrosse
Homes of
Delaware
(Hayfield)
(continued)**

Mr. Fuqua stated that, for the record and for the Council's reference, he submitted the following: a copy of the minutes of the public hearing held by the Planning and Zoning Commission on the Hayfield application; the Commission's reasons for denying the application; the Commission's approval of some nearby subdivisions; the Applicant's point by point response to the Commission's reasons for denial; and a transcript of the public hearing held by the Commission on January 26, 2006.

Mr. Fuqua stated that the record that was presented to the Planning and Zoning Commission showed that the application was in compliance with Sussex County's Zoning Ordinance and with the AR zoning category; that it was in compliance with the County's Land Use Plan; and that it addressed the list of criteria included in Section 99-C of the subdivision ordinance and the list of criteria listed in the AR cluster option ordinance. He stated that the Hayfield site design is far superior to a regular subdivision type of plan; that the original site plan was revised to incorporate many suggestions made during the PLUS review with the State agencies; that the application is for 350 lots on 175 acres (2 per acre as permitted under the cluster ordinance); that the site plan has a 40 percent open space provision; that substantial recreational facilities are included; that the site was designed and redesigned to preserve approximately 65 percent of the pre-development wooded area; that none of the wetlands would be encroached upon; that there would be (approximately) a 100 foot buffer created from the non-tidal federal wetlands; that the development would be served by central water and a central sewer system to be operated by a public utility company; that at the public hearing on this application, not one person appeared in opposition; that the reasons for the denial of this application can be summed up in two words – "Isaacs Glen"; and that, in their opinion, when the Commission denied the Hayfield application, they felt they had to deny Hayfield as well.

Mr. Fuqua submitted a point-by-point response to the Commission's reasons for denying the 350-lot cluster subdivision application. Mr. Fuqua stated that his response points out the lack of a factual basis and the lack of a legal basis for the denial of Hayfield. He stated that he believes the Commission not only overlooked what the law permits, but also overlooked what the County already permitted in terms of subdivisions; that there was an injustice in terms of the application of the applicable law; and that Hayfield is entitled to the County's approval. Mr. Fuqua referred to the cluster grid which was submitted as an Exhibit by Bill Manning, Attorney for the Isaacs Glen appeal, that showed the cluster subdivisions that had been reviewed and approved by the County, and he stated that the grid was included in the exhibits for the Hayfield appeal. The grid showed that 24 of

the 26 approved cluster subdivisions were outside of the Development District under the Land Use Plan, in the low density area, where they are permitted.

Mr. Fuqua submitted Proposed Conditions and Findings, which he based as closely as possible on the Conditions and the Findings that the Council made on the Isaacs Glen approval.

Public
Hearing/
Appeal of
Lacrosse
Homes of
Delaware
(Hayfield)
(continued)

Mr. Griffin stated that the Council has been given the transcript of the Public Hearing before the Commission, along with a point-by-point response to the Commission's reasons for denying the application. He suggested that, after the Council has the opportunity to read the transcript and to read the submissions, the issues could be debated among the Council.

Public comments were heard. Dan Kramer stated that in his opinion, this Appeal should not be before the Council because there was no opposition. He told the Council that today's edition of the Delaware State News reported that the State is not out to prevent development and that development is permitted in the Level 4 Area, but with no funding for infrastructure. He concluded by stating that he supports the application.

The Public Hearing was closed.

M 639 06
Defer
Action on
Appeal of
Lacrosse
Homes of
Delaware
(Hayfield)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to defer action on the appeal of the Sussex County Planning & Zoning Commission's decision to deny Subdivision Application No. 2005-12, an application of Lacrosse Homes of Delaware, Inc.

Motion Adopted: 5 Yea.

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

Long Neck
Sanitary
Sewer
District
Expansion
Proposal

Rob Davis, Planning Technician, requested the Council's permission to prepare and post notices for a Public Hearing for the proposed annexation of an area to the Long Neck Sanitary Sewer District. The area, which is located on the west side of Route 24 and the south side of Indian Mission Road, is contiguous with the Long Neck Sanitary Sewer District. He noted that the parcels are located in an area known as the Expansion 1 Area of the Long Neck Sanitary Sewer District and located within the Inland Bays Regional Planning Area for sewer service.

Mr. Cole questioned if there is sufficient sewer capacity for the annexation. Mr. Davis responded that there is available capacity.

M 640 06
Authorize
Posting of

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Long Neck Sanitary Sewer District boundary to

**Notices/
Long Neck
Sanitary
Sewer
District
Expansion**

include the Route 24 – Northside Expansion.

Motion Adopted: 5 Yea.

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

**Old
Business/
C/U
No. 1665**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL/ MEDICAL OFFICE COMPLEX TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20.433 ACRES, MORE OR LESS” (Conditional Use No. 1665) filed on behalf of L. T. Assoc., LLC.

The Planning and Zoning Commission held a Public Hearing on this application on August 10, 2006 at which time they deferred action; on August 24, 2006, the Commission recommended approval of the application with conditions.

The County Council held a Public Hearing on the application on August 22, 2006 at which time they deferred action.

The Council discussed the Commission’s recommendation of approval and proposed conditions.

**M 641 06
Adopt
Ordinance
No. 1873
(C/U
No. 1665)**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1873 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL/ MEDICAL OFFICE COMPLEX TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20.433 ACRES, MORE OR LESS” (Conditional Use No. 1665) filed on behalf of L. T. Assoc., LLC, with the following conditions:

- 1. Water shall be provided by central water system.**
- 2. The project shall be served as part of Sussex County’s West Rehoboth Sewer District in accordance with the Sussex County Engineering Department’s standards.**
- 3. The project is to be developed in phases. Phase I shall be limited to 81,700 square feet of office space based upon the current limited sewer capacity as outlined by the Sussex County Engineering Department. Any additional phases or expansion beyond 81,700 square feet of office space is subject to the approval of the County Engineering Department and subsequent approval by the Planning and Zoning Commission.**
- 4. Site plan review for each phase of development shall be subject to**

M 641 06
Adopt
Ordinance
No. 1873
(C/U
No. 1665)
(continued)

the approval of the Planning and Zoning Commission.

- 5. Construction, site work, grading and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.**
- 6. The offices shall be limited to professional medical care or other services incidental to such a use. The offices may be used for other professional services such as law, accounting, and engineering.**
- 7. Parking shall be located in the rear of the buildings.**
- 8. A landscape berm shall be provided along the southeasterly boundary and shall be provided along the southeasterly boundary and shall be shown on the final site plan.**
- 9. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yea.

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

Old
Business
(C/U
No. 1677)

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A REGIONAL WATER DISTRIBUTION FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.18 ACRE, MORE OR LESS” (Conditional Use No. 1677) filed on behalf of Tidewater Utilities, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on August 24, 2006 at which time they deferred action; on September 14, 2006, the Commission recommended approval of the application with conditions.

The County Council held a Public Hearing on the application on September 12, 2006 at which time they deferred action.

The Council discussed the Commission’s recommendation of approval and proposed conditions.

M 642 06
Adopt
Ordinance
No. 1874
(C/U
No. 1677)

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1874 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A REGIONAL WATER DISTRIBUTION FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.18 ACRE, MORE OR LESS” (Conditional Use No. 1677) filed on behalf of

Tidewater Utilities, Inc., with the following conditions:

**M 642 06
Adopt
Ordinance
No. 1874
(C/U
No. 1677)
(continued)**

1. The Conditional Use shall expire in five (5) years. After the expiration of the conditional use, the storage tanks shall be removed and the area where the facility is located shall be reforested. The Regional Water Distribution Facility shall occupy the same ground location and approximate area as the originally approved water storage facility of Ellis Point. This Regional Water Distribution Facility shall be designed to be dismantled once a permanent, off-site Regional Water Distribution Facility is constructed along Whites Neck Road. Once dismantled, the disturbed area shall be reforested with native species.
2. A landscaped buffer shall be established and maintained to shield the Regional Water Distribution Facility from neighbors' views. The landscape plan is to be shown on the final site plan.
3. Two water storage tanks shall be permitted with each having a capacity of 30,000 gallons.
4. The maximum height of each of the two tanks shall be 12 feet.
5. The lighting at the Regional Water Distribution Facility shall be limited to normal security lights which shall be shielded from nearby neighbors and roads.
6. The two tanks shall be painted neutral green and lettering shall be limited to the identification of the water company, "Tidewater Utilities, Inc." only.
7. The Regional Water Distribution Facility shall be surrounded by a security fence at least 8-feet in height.
8. Structural design of the water tanks and operation of the Regional Water Distribution Facility shall comply, at a minimum, with industry standards of the American Water Works Association (AWWA).
9. The site plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yea.

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

**Old
Business/
C/U
No. 1694**

The Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR AN ELEVATED WATER STORAGE TANK / PUBLIC UTILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 18,234 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1694) filed on behalf of Tidewater Utilities, Inc.

The Planning and Zoning Commission held a Public Hearing on this

application on August 24, 2006 at which time they deferred action; on September 14, 2006, the Commission recommended approval of the application with conditions.

The County Council held a Public Hearing on the application on September 12, 2006 at which time they deferred action.

(continued) The Council discussed the Commission's recommendation of approval and proposed conditions.

M 643 06
Adopt
Ordinance
No. 1875
(C/U
No. 1694)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1875 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR-RPC GENERAL RESIDENTIAL DISTRICT- RESIDENTIAL PLANNED COMMUNITY FOR AN ELEVATED WATER STORAGE TANK/PUBLIC UTILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 18,234 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1694) filed on behalf of Tidewater Utilities, Inc., with the following conditions:

1. The maximum capacity of the tower shall not exceed 400,000 gallons.
2. The maximum height of the tower shall be 160 feet and the design shall be a hydrosphere.
3. The lighting at the tower shall be limited to normal security lights which shall be shielded from nearby neighbors and roadways and safety lights required by the Federal Aviation Administration on the tower.
4. The tower shall be painted white or a sky neutral color and lettering shall be limited to identification of the water company only.
5. The water facility shall be surrounded by a security fence at least eight (8) feet in height.
6. Structural design and operation of the water tower shall comply at a minimum with industry standards, such as the American Water Works Association (AWWA).
7. Placement of antennas on the tower by State and County governments and area fire companies shall be permitted without the payment of placement or rental fees and 50 percent of the antenna space shall be reserved for such governmental use.
8. The site plan shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all applicable agency approvals.

Motion Adopted: 5 Yea.

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

Mr. Rogers, Yea

**Old
Business
(C/U
No. 1696)**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL WASTEWATER TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.11 ACRES, MORE OR LESS” (Conditional Use No. 1696) filed on behalf of Tidewater Utilities.

**Old
Business
(C/U
No. 1696)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on August 24, 2006 at which time they deferred action; on September 14, 2006, the Commission recommended approval of the application with conditions.

The County Council held a Public Hearing on the application on September 12, 2006 at which time they deferred action.

The Council discussed the Commission’s recommendation of approval and proposed conditions.

**M 644 06
Adopt
Ordinance
No. 1876
(C/U
No. 1696)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1876 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL WASTEWATER TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.11 ACRES, MORE OR LESS” (Conditional Use No. 1696) filed on behalf of Tidewater Utilities, with the following conditions:

- 1. All improvements for collection, treatment and disposal of sanitary waste shall be constructed and maintained in accordance with the requirements of DNREC, the Sussex County Engineering Department, and any other governmental agency with jurisdiction over the use of the site, or any modification thereto.**
- 2. The expansion of the site for sanitary wastewater treatment and the use of rapid infiltration beds are subject to all other applicable laws, ordinances, rules and regulations.**
- 3. The facilities and infrastructure shall be designed to comply with County specifications.**
- 4. The facilities and infrastructure will be designed and built to County specifications so that if, in the future, the County provides public sewer, the project will be capable of immediate connection.**
- 5. The final site plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yea, 1 Nay.

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

**Letter
Read
into the
Record**

Mr. Lank read into the record, a letter he received on September 14, 2006 from Russell Archut, Assistant County Engineer:

**Letter
Read
into the
Record
Regarding
C/U #1696
(continued)**

“... that the Sussex County Engineering Department has had additional conversation with Tidewater Utilities, Inc. concerning the referenced conditional use. Tidewater Utilities proposes a Regional Wastewater Facility on 5.11 acres on Angola Neck. The Engineering Department would like to revise its previous comments. After further consideration, the Engineering Department no longer objects to a wastewater facility that would serve Bay Front and Herring Point subdivisions. Further, the Engineering Department has no objection to the wastewater facility providing temporary service to the Woods on Herring Creek if interim wastewater service is needed for the community while the County is planning for wastewater service in the area. We respectfully request that the conditional use decision limit services by the facility to those subdivisions as stated.”

Mr. Dukes questioned if the letter should not have been read prior to the Council voting on the application. Mr. Lank responded that the letter was received after the closing of the record.

**Introduction
of Proposed
Zoning
Ordinance**

Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.62 ACRES, MORE OR LESS” (Conditional Use No. 1719) filed on behalf of Daniel D. Ruppert, Jr. The Proposed Ordinance will be advertised for Public Hearing.

**Additional
Business**

Under *Additional Business*, Daniel Kramer questioned the Council that if the County is not going to uphold the sign laws, why doesn't the Council just get rid of the Ordinance? He also questioned why the Council passed the Cluster Ordinance.

**M 645 06
Adjourn**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to adjourn at 12:12 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council