



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 23, 2007

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 23, 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
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

Mr. Dukes announced that Mr. Cole would not be in attendance.

M 623 07 Approve Agenda

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda by deleting "Administrative Building Roof Replacement – Studio Jaed – Amendment No. 2" under Russell Archut, Assistant County Engineer, and to approve the Agenda, as amended.

Motion Adopted: 3 Yeas, 2 Absent.

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

M 624 07 Approve Minutes

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to approve the minutes of October 2, 2007.

Motion Adopted: 3 Yeas, 2 Absent.

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

Mr. Rogers joined the meeting.

Corre- spondence

Mr. Griffin read the following correspondence:

SUSSEX COUNTY SENIOR SERVICES, INC., GEORGETOWN, DELAWARE.

RE: Complimentary copy of the book CHEER recently published entitled *Remember the Times*, a collection of memoirs of the mature population of Sussex County.

**Airport
Hangar
Renovations
Bid Results**

Michael Izzo, County Engineer, presented Bids for Sussex County Project No. 07-02, Sussex County Airport Hangar Renovations. Nine bidders submitted bids; the lowest bidder was Richard Y. Johnson & Son, Inc. of Lincoln, Delaware. Mr. Izzo advised that a couple of alternatives were included in the bid; the base bid was for the renovation of the existing hangar building for Delaware Technical & Community College's Aircraft Airframe Mechanics Program.

Mr. Izzo advised that PATS Aircraft, a part of DeCrane Aerospace Systems, offered to provide an existing paint booth for the project. He noted that "Alternate A" of the Bid was for utilizing the existing paint booth and the low bid for this item came in at \$20,403.00; "Alternate B" of the Bid was for purchasing and installing a new booth and the low bid for this item came in at \$55,301.00. As a result, it was determined that it would be beneficial to make use of the existing paint booth.

Mr. Baker provided some background and history on the project. He reported that, in October 2006, Delaware Technical & Community College presented a proposal to establish an Associates Degree Program for aircraft airframes mechanics at the Sussex County Airport. At that time, they asked the County to form a partnership with them by providing a facility at the Airport for an instructional lab for the Program.

Mr. Baker stated that, on March 13, 2007, the County Council approved the purchase of a block hangar building at the Airport for a payment of \$25,000 and the cancellation of a \$400,000 loan; on March 27, 2007, the County Council approved renovations to the block hangar building, which would thereafter be leased to Delaware Technical & Community College for the Program. Since that time, the Engineering Department has been working on design specifications for renovating the hangar.

Mr. Baker noted that the bid results came in considerably higher than anticipated (\$525,000.00 was the estimate). He stated that, if the low bid is approved by the Council, credit change orders could be achieved totaling approximately \$47,000.00. Mr. Baker stated that the cost of renovating the hangar is now estimated to be approximately \$775,000.00, which includes engineering, inspection, roof repairs, etc. Mr. Baker stated that funding for this project is available from the Capital Improvement Fund.

Dr. Ileana Smith, Dean of Instruction, Delaware Technical & Community College (DTCC), and Cheryl Parker, Director of Human Resources for PATS, told the Council of the great need for this Program and how it is vital to the economy of Sussex County and the State of Delaware. Dr. Smith stated that they want to start classes in August 2008.

Dr. Smith introduced Barry Wise, the Department Chairperson they have hired for the Program, who is currently working on course development.

**Airport
Hangar
Renovations
Bid Results
(continued)**

Dr. Smith stated that the College has an ongoing fundraising effort for the \$540,000 in equipment that is needed for the instructional facility.

Currently, they have pledged support in the amount of \$300,000.00. Dr. Smith stated that they are also looking into grant funding for the Program and that they will be asking the Delaware Economic Development Office for funding.

An Aviation Specialist hired by DTCC spoke and outlined the technical aspects and FAA requirements for the certification of the instructional facility.

**M 625 07
Award
Bid for
Airport
Hangar
Renovations
Project**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, that the bid for Sussex County Project No. 07-02, Sussex County Airport – Hangar Renovations, be awarded to Richard Y. Johnson and Son, Inc. of Lincoln, Delaware for the “Alternate A” bid amount of \$720,318.00.

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**

**DelDOT/
Mobility
Element
of the
Sussex
County
Compre-
hensive
Plan
Update**

Bobbie Geier, Delaware Department of Transportation, presented a power point presentation on the Mobility Element of the Sussex County Comprehensive Plan Update, which is a condensed version of the Transportation Plan. Mrs. Geier focused on the issues, strategies and actions: North-South and East-West Movement, Evacuation Routes, Coordinated Public Transportation Services, Travel Alternatives, Intergovernmental Coordination, Air Quality, and Sub-Area Planning,

Ken Bock, Deputy Director of CHEER, requested permission to speak. He stated that he wanted to make the Council aware that the Plan for Coordinated Public Transportation Services (Issue 4 in the Mobility Element) is holding up applications for funding under the Federal “New Freedom” Program which would provide funding for programs in Sussex County for medical and elderly transportation. Mr. Bock clarified that this item needs to be approved by the Sussex County Council so that the disbursement of the funding can occur. In response to questions raised by Mr. Baker, Mr. Bock stated that it is his understanding that, under Federal regulations, there is a need for the County Council to take action on this element of the Plan. Mr. Baker stated that he would look into the matter and place it on a future agenda, if necessary.

**Adminis-
trator's
Report**

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

1. Library Staff Development Day

**Adminis-
trator's
Report
(continued)**

On Thursday, October 25, an education program for County librarians will be held at Delaware Technical & Community College. The theme for the day is "Meeting the Needs of Librarians - Helping Libraries Survive and Thrive." Due to the effort to include as many staff as possible in this educational program, County libraries will be closed on Thursday, October 25, 2007.

2. "Clean Hands" Ordinance Impact

As a result of the "Clean Hands" Ordinance that went into effect last Tuesday, October 16, 2007, approximately \$18,165 in taxes and sewer and water charges has been collected, primarily as a result of this ordinance. This number reflects collections of individuals who have applied for building permits and are referred to the Tax Division and/or Utility Billing Division for payment of those fees prior to issuance of the building permit.

3. Rescue Assistance – Selbyville Sewer Trench

On Thursday, October 18, 2007, Sussex County's sewer trucks provided assistance to rescue a Selbyville man trapped in a trench that collapsed while he was installing sewer pipe. Attached is a list of County employees from the Environmental Services Department that responded with three sewer trucks for assistance. One truck was needed to remove dirt away from the victim. Sussex County's paramedics, of course, also responded. Mr. Jamie Jameson was rescued and sent home without injuries.

4. Dorothy Farrell – Former County Employee

We regret to announce that Mrs. Dorothy Farrell passed away on October 22, 2007. She was one of the first two dispatchers hired by Sussex County in November 1964. She retired in August 1993. She first worked over the Georgetown Firehouse. She is survived by her husband, also a County pensioner, Mr. Charles Farrell. We wish to express our regrets to the Farrell family.

**Wastewater
Agreements**

Mr. Godwin presented wastewater agreements for the Council's consideration.

**M 626 07
Execute
Wastewater
Agreements/**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 835, that the Sussex County Council execute a Construction Administration and Construction

Bay Crossing **Inspection Agreement between Sussex County Council and Blenheim lands, LLC, for wastewater facilities to be constructed in Bay Crossing, Phase 3B, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

M 626 07 **Motion Adopted: 4 Yeas, 1 Absent.**

(continued)

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

M 627 07 **A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the**
Execute **recommendation of the Sussex County Engineering Department, for Sussex**
Wastewater **County Project No. 81-04, Agreement No. 836, that the Sussex County**
Agreements/ **Council execute a Construction Administration and Construction**
Bay **Inspection Agreement between Sussex County Council and Blenheim**
Crossing **Lands, LLC, for wastewater facilities to be constructed in Bay Crossing,**
Phase 4, located in the West Rehoboth Expansion of the Dewey Beach
Sanitary Sewer District.

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**

Bid **Frank Shade, Purchasing Officer and Fleet Manager, presented bid results**
Results/ **for two Chevrolet Chassis for Paramedic Response Units:**

Chassis/

Paramedic
Units

Hertrich Fleet	\$34,998.00 per unit
I. G. Burton Chevrolet	\$35,439.00 per unit

M 628 07 **A Motion was made by Mr. Jones, seconded by Mr. Phillips, that Sussex**
Accept **County Council accepts the bid of Hertrich Fleet Services in the amount of**
Bid for **\$34,998.00 per unit, for the purchase of two Chevrolet Chassis for use as**
Chassis/ **Paramedic Response Units.**

Paramedic
Units

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**

Bid **Frank Shade presented bid results for two Chevrolet Suburbans for use as**
Results/ **Paramedic Response Vehicles:**

Suburbans/
Paramedic
Vehicles

I. G. Burton Chevrolet	\$36,629.00
Hertrich Fleet	\$36,827.00

M 629 07
Accept
Bid for
Suburbans

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council accepts the bid of I. G. Burton Chevrolet in the amount of \$36,629.00 per unit for two Chevrolet Suburbans for use as Paramedic Response Vehicles.

M 629 07
(continued)

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

Agenda
Change

It was decided to move forward to the Public Hearing scheduled for 10:45 a.m.

Public
Hearing/
Subdivision
Appeal/
Rajun
Cajun
Homes,
LLC

A Public Hearing was held on an appeal of the Sussex County Planning and Zoning Commission's decision to deny an application of Rajun Cajun Homes, LLC (Subdivision No. 2006-11) for the subdivision of land in an AR-1 Agricultural Residential District in Nanticoke Hundred, Sussex County, by dividing 10.98 acres into 10 lots, and for a variance from the maximum allowed cul-de-sac length of 1,000 feet, located north of Road 524, 250 feet southwest of Nichols Street within the Lakewood Subdivision.

Mr. Griffin stated that the County received a letter on October 19, 2007 from Kercher Engineering Inc. (KEI) asking on behalf of their client (Rajun Cajun Homes, LLC) that the appeal hearing be postponed until further notice. The letter stated that "The client will not be able to attend nor will he have anyone available to represent him for this appeal."

Mr. Griffin stated that the options of Council would be:

- If the Council believes the application for postponement was made in a timely fashion, the Council could grant the request but require the Applicant to pay the cost of re-advertising the next Public Hearing.**
- If the Council believes the request was not received in a timely fashion (received on Friday before the Public Hearing on Tuesday), the Council could hold the Public Hearing and allow the opponents to make their case on the record and then act on the information presented or the Council could leave the record open for the Applicant to present information at a later time and the Council could take action at a later time.**
- The Council could hold the Public Hearing and call on the Applicant to make its presentation; if no one is present on behalf of the Applicant, there would be no record, and the Council could deny the appeal based on the Applicant's failure to make a record.**

There was no one present on behalf of the Applicant or in support of the Application.

Public comments were heard in opposition to the application.

Public
Hearing/
Subdivision
Appeal/
Rajun
Cajun
Homes,
LLC
(continued)

Timothy Scott Holt spoke in opposition to the application. He stated that he is concerned about the location of the proposed driveway, that the location would be a safety hazard to his children; that the driveway will come within 15 feet of his driveway; that there are no proposed speed bumps; that if the application is approved, he would like it to be contingent on a safety fence, speed bumps and a buffer; that the speed of the vehicles coming through there is a major concern; that there is no plan for the maintenance of the common areas; and that no deed restrictions were proposed.

Kurt Brown spoke in opposition to the application. He stated that the drainage ditches will impact Concord Pond; that stormwater management is a concern; that there is flooding in the area; that the area serves as a wildlife refuge; that the spillway at Concord Pond is still in bad shape and the State is not maintaining the spillway; that previously, the Council unanimously agreed to send a letter of concern to Secretary Hughes about the safety issues at Concord Pond (specifically hunting) and that he would like the County to honor that decision; and that this development will add additional pressure to the pond.

Warren Thompson spoke in opposition to the application. He stated that the builder did not have any type of specifications based on what they proposed and that he requests that the builder comes up with specific plans and home styles, and contingencies for speed bumps and fencing.

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

M 630 07
Deny
Appeal/
Rajun
Cajun
Homes,
LLC

A Motion was made by Mr. Rogers, seconded by Mr. Jones, that due to the lack of a record by the Applicant at the Public Hearing on October 23, 2007, the County Council denies the request for an appeal of the Sussex County's Planning and Zoning Commission's decision to deny the application of Rajun Cajun Homes, LLC (Subdivision No. 2006-11).

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

Public
Hearing/
Holly
Oak
Suburban
Community
Improve-
ments
Project

A Public Hearing was held to declare the amount of the assessment and levy against each freeholder of property of Sussex County Project No. 06-06, Holly Oak Suburban Community Improvements Project. Holly Oak Subdivision is located on County Road 288-A, Dorman Road, near Angola; there are 57 parcels in the community; the streets are privately owned by the Holly Oak Property Owners Association. On October 11, 2005, the Association returned 27 executed petitions; the petitions represented 53 percent of the total subdivision road frontage. The project was accepted into the Suburban Community Improvement Program on January 17, 2006

by the Sussex County Council.

Patti Deptula stated that an election on the proposed project was held on June 10, 2006. The election passed 49-1.

Public
Hearing
(continued)

Mrs. Deptula reported that the final front footage assessment is \$2.49 per assessed front foot of property with a 15 year repayment period. She noted that a property owner may elect to pay off the entire amount up front; the lump sum repayment cost would be \$24.16 per assessed front foot.

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

M 631 07
Adopt
R 028 07
Holly
Oak
Suburban
Community
Improve-
ments
Project

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Resolution No. R 028 07 entitled “RESOLUTION DECLARING THE AMOUNT OF THE ASSESSMENT AND LEVY AGAINST EACH FREEHOLDER OF PROPERTY OF SUSSEX COUNTY PROJECT NO. 06-06, HOLLY OAK SUBURBAN COMMUNITY IMPROVEMENTS”.

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. Phillips was out of the room during the Vote.

Absence
of Council-
member

Mr. Dukes left the meeting due to a possible conflict of interest on the Public Hearing regarding Subdivision Application No. 2006-10, an application of Lacrosse Homes of Delaware, Inc.

Mr. Jones presided over the meeting.

Recess

Mr. Jones declared a short recess at 11:47 a.m.

Reconvene

Mr. Jones called the Council back into session at 12:02 p.m.

Public
Hearing/
Subdivision
Appeal/
Lacrosse
Homes of
Delaware,
Inc.

A Public Hearing was held on an appeal of the Sussex County Planning and Zoning Commission’s decision to deny an application of Lacrosse Homes of Delaware, Inc. for the subdivision of land (The Village at Trussum Pond) in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 213.64 acres into 320 lots (Cluster Development), located north of Road 70 (Gordy Road), 1,500 feet west of Road 72 (Wooten Road) and on both sides of Road 462 (Trussum Pond Road).

The Planning and Zoning held a Public Hearing on this application on May 24, 2007 at which time they deferred action. On June 20, 2007, the Commission deferred action again. On June 27, 2007, the Commission recommended that the application be denied by a 3-1 Vote, based on the record and for the following reasons:

- Public Hearing/
Subdivision Appeal/
Lacrosse Homes of Delaware, Inc.
(continued)**
- 1. The proposed cluster subdivision as designed does not meet the purpose of the Subdivision or Zoning Ordinance, and Mr. Johnson does not believe that it promotes the orderly growth of the County.**
 - 2. The proposed project also does not meet the purpose of the Subdivision Ordinance because it does not ensure that residential developments are conveniently and properly located.**
 - 3. The proposed project is not in accordance with the 2002 Sussex County Land Use Plan Update because it does not represent growth in an area where public infrastructure and services are available.**
 - 4. The project is in an area that has not developed with similar projects or residential density. There are no other developments in the immediate vicinity that are similar in density to what has been proposed.**
 - 5. The proposed project is served by Gordy Road, Trussum Pond Road and Wooten Road, which are all local roads. All these roads are also used regularly by large farm equipment. The project is inconsistent with the existing traffic and agricultural use of these roads. The project would also lead to increased congestion on the adjacent and surrounding roads and the State has no plans to invest in roadway upgrades in this area.**
 - 6. Mr. Johnson is not satisfied that the proposed clustered subdivision is superior to a standard subdivision, for the following reasons:**
 - A. In their presentation and in response to Mr. Johnson's questioning, the Developer could not adequately describe how this project creates an environment and design that is superior to a standard $\frac{3}{4}$ acre lot subdivision.**
 - B. Mr. Johnson does not feel that the use of open space in this project is a design improvement over a standard subdivision. While there is a 30-foot buffer around the perimeter, more than 60 lots are oriented towards the perimeter of the subdivision. Open space was not used along the outer portions of this development to create a transition between this development and the neighboring properties and uses.**
 - C. More than 100 of the lots back up to one another without any open space in between them. The Commission has regularly stated that this is not a superior design.**
 - 7. Mr. Johnson does not feel that the items set forth in Section 99-9C of the Subdivision Ordinance have been favorably addressed. For example:**

Public
Hearing/
Subdivision
Appeal/
Lacrosse
Homes of
Delaware,
Inc.
(continued)

- A. The Applicant did not adequately address how this subdivision is integrated into the existing terrain and surrounding landscape.
- B. The Applicant did not adequately address whether the project will adversely affect natural areas or cause significant tree, vegetation and soil removal. If the subdivision was approved, it would require extensive grading for road improvements, grading for the large community septic system next to James Branch and more impervious areas caused by the homes, streets, amenities, driveways, etc.
- C. The Applicant did not adequately address how the project promotes the preservation of open space. For example, with the orientation of lots towards the perimeter of the subdivision, and with so many lots backing up to one another, the appearance of openness in this neighborhood is not maintained. And there is little transition between this project and the neighboring properties.
- D. The project will adversely affect area roadways and does not provide for the safe vehicular and pedestrian movement within the site and along adjacent roads. There will be many cars per day added to the roadways in and around the project. The roads in the area, are local roads of minimal width that are frequently used by large pieces of farm equipment.
- E. Generally, the Applicant did not show that each of the 17 items in Section 99-9C were addressed or considered in the design of this subdivision, as required by the Cluster Ordinance. The applicant has not adequately documented how the proposed development provides for a total environment and design which are superior to that which would be allowed under the Standard lot option; does not preserve the natural environment and historic or archeological resources; and did not adequately address how the project will not have an adverse effect on all the items included under County Code 99-9C. For example, 1.) almost 1/3 of the home sites shown in the proposed preliminary site plan do not back up to open space. Rather over 100 small home lots and back to back with other small lots. 2.) By the calculations presented, the proposed active and passive open area constitutes only 22% of the project. 3.) The proposed cluster development is totally out of character for this rural, predominantly agricultural and nature preserve area. 4.) This project does not preserve the open space, agricultural lands, natural habitats and forest land that is typically found in the surrounding area. Instead, it is creating an isolated development that cannot be served effectively or efficiently by public services.
- F. This project certainly compromises the integrity of the 2004

Public
Hearing/
Subdivision
Appeal/
Lacrosse
Homes of
Delaware,
Inc.

(continued)

Strategies for State Policies and Spending, the Livable Delaware Green Infrastructure area established under Governor Minner's Executive Order #61 and the preservation goals which are inherent in many of DNREC's programs. Of particular concern are: 1.) The project impacts all 3 layers of the Green Infrastructure map (cropland, forest and natural resources), 2.) the project's proximity to the James Branch Nature Preserve, and 3.) possible impacts to the rare species in the James Branch, Trussum Pond and Trap Pond. While various mitigating measures are proposed that may help reduce impacts from this project, not doing the project at all is the best avenue for avoiding negative impacts.

John Paradee, an Attorney with the law firm of Prickett, Jones & Elliott, was present on behalf of the application with Zach Crouch of Davis, Bowen & Friedel, Bruce Patrick from Tidewater Utilities, and John Dixon, a Principal of Lacrosse Homes of Delaware.

Mr. Paradee pointed out that on June 20th, Commissioner Gordy made a Motion to approve the application and he cited the reasons why the application complied with the County's Code requirements. At that time, Commissioner Burton had to abstain from participating since he was not present at the May 24th Public Hearing and, in the absence of a Second to Commissioner Gordy's Motion, the Commission deferred action so that Commissioner Burton could review the record and participate in the vote at a later time. Mr. Paradee stated that, on June 28th, the date of the Commission's decision, Mr. Burton was not present and therefore, the reason for the deferral on June 20th was still prevailing. Nevertheless, Commissioner Johnson made a Motion to deny the application, the Motion carried and the application was denied.

Mr. Paradee stated that the major questions are: (1) does the application satisfy all of the County's Code requirements and (2) does the proposed cluster development provide a total environment and design which are superior to a standard by-right subdivision and which will not have any adverse effect on natural resources. Mr. Paradee stated that the answer to these questions is "yes" and that Commissioner Gordy had it right in his Motion on June 20th.

Mr. Paradee stated that the criteria under Section 115-25 of the Sussex County Code for consideration of a cluster subdivision development are: (1) does the proposed cluster development comply with all requirements set forth in Section 115-25 of the Code relating to cluster developments as a permitted use in the AR-1 Zoning District, (2) does the proposed cluster development provide a total environment and design which are superior to that which would be allowed under the regulations for the standard option; (3) will the cluster development plan preserve the natural environment and any historical or archaeological resources, and (4) have all the considerations in Section 99-9C of the Subdivision Ordinance been

addressed and does the approval of the cluster option for the development have any adverse impact on any of those considerations. Mr. Paradee stated that they submit that this project complies with all four of these criteria.

Public
Hearing/
Subdivision
Appeal/
Lacrosse
Homes of
Delaware,
Inc.
(continued)

Mr. Paradee submitted an Exhibit Book into the record, including a cover letter dated October 19, 2007 from himself addressed to the Council responding to all of the various rationale offered by the Commission in support of its decision. Mr. Paradee stated that he would not be making a point by point recitation of every subject detailed in the letter and that they would touch on the highlights. Mr. Paradee stated that one of the critical points covered in the letter is that the seventeen considerations set forth in Section 99-9C of the Code are addressed favorably by this application and that they believe the application fully and adequately addresses all of the criteria in the Ordinance. Mr. Paradee asked that the information submitted be made a part of the record and considered in the Council's deliberations.

Mr. Paradee and Mr. Crouch stated that the proposed cluster development is a superior design over the standard subdivision option. Mr. Crouch stated that the density is 1.5 units per acre; that 46 percent of this project is open space; that if you eliminate the community system and the stormwater management ponds, the open space is 36 percent, which still exceeds the requirements for a cluster development; that the open space requirement for a cluster development is 30 percent; that the open space requirement for a typical subdivision is only 10 percent; that there is open space centrally located in the subdivision; that 219 of the 320 lots back up to open space; that there is a requirement for a 30 foot buffer along agricultural lands; that they propose to continue that 30 foot buffer around the entire perimeter; that curbing, streetlights and sidewalks are proposed on both sides of the street; that they propose a community septic system; that they propose central water which will meet all fire service and domestic requirements; that streets will be designed and maintained by DelDOT; that a Traffic Impact Study was performed and approved by DelDOT; that the developer will have to pay for all off-sight improvements in the area of the Traffic Impact Study including repaving Gordy Road; that there will be 11 foot lanes with 5 foot shoulders on the roads; that the proposal provides for safe vehicular and pedestrian movement within the site and along adjacent roads; that none of the woodland areas will be disturbed and the entire perimeter of the site will have a 30 foot forested buffer (trees and shrubs) with walking trails; and that they propose a 50 foot buffer from all wetlands.

Mr. Paradee stated that this project is located just outside of the Town of Laurel and the Town's Comprehensive Plan shows that this project is only one and one-half miles outside of their proposed Comprehensive Plan area. Mr. Paradee stated that this project is also located within one mile of lands in Sussex County that are zoned for General Residential Use and one and one-half miles from a Level 3 Area designated for growth under the

County's Comprehensive Plan; that the Commission's conclusion that the proposed cluster development impacts all three layers of the green infrastructure map (crop land, forest land and natural resources) is incorrect.

**Public
Hearing/
Subdivision
Appeal/
Lacrosse
Homes of
Delaware,
Inc.
(continued)**

Mr. Patrick stated that that the location of the on-site wastewater treatment plant will not have any impact on James Branch or any of the other environmental areas; that the wastewater system can accommodate existing developments, i.e. Briarwood, Sandy Ridge; that treatment would be to high standards; and that the treatment facilities would be contained inside of a building.

Mr. Paradee stated that the proposed cluster development will not have an adverse impact on any of the considerations and that they ask the Council to reverse the Commission's decision and to grant preliminary subdivision approval.

Public comments were heard.

Arlene Lowe read a letter into the record, with signatures of 62 people, in opposition to the proposed subdivision. They expressed concern of the farmland becoming a huge development; that another development with 300 homes is proposed on Road 462; that the schools cannot handle the additional children that would live in this development; that traffic is already a concern and this project will create more traffic; and that Trussum Pond Road is "wore out".

Michael Lowe, Lewis Lowe and Lee Collins stated that the Applicant has said the streets will be maintained by DelDOT, yet nothing has been submitted to DelDOT; that Trussum Pond Road is already in bad shape; that the project will cause too much traffic on area roads; that there is not much DelDOT can do to improve the road; that James Branch could be impacted by the proposed wastewater system; that the infrastructure in the area is inadequate and cannot support new development; that the area schools will be impacted; that there will be extra demands placed on emergency responders; that they are concerned that it will impact the farmers in the area; that it will become more difficult to move farm equipment on the roads; and that there will be an impact on the area residents' country way of living.

Dan Kramer spoke in support of the application and he stated that cluster development saves land.

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

**M 632 07
Defer
Action on**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to defer action on the appeal of Lacrosse Homes of Delaware, Inc. (Subdivision #2006-10).

**Appeal of
Lacrosse
Homes of
Delaware**

Motion Adopted: 3 Yeas, 2 Absent.

**M 632 07
(continued)**

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

Requests

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

**M 633 07
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$335.00 (\$135.00 from Mr. Jones' Councilmanic Grant Account and \$50.00 from Mr. Cole's, Mr. Dukes', Mr. Phillips' and Mr. Rogers' Councilmanic Grant Accounts) to Georgetown EMS Station 93 for their annual Country Music Show benefit.

Motion Adopted: 3 Yeas, 2 Absent.

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

**M 634 07
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$1,000.00 (\$200.00 from each Councilmanic Grant Account) to Thanksgiving for Thousands for the Thanksgiving dinner for needy families.

Motion Adopted: 3 Yeas, 2 Absent.

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

**Additional
Business**

Under Additional Business, Dan Kramer commented that the County charges 1 1/2 percent if taxes are paid late and he questioned why the County doesn't pay something if the taxpayer pays his bill early.

Mr. Kramer referred to a grant provided to the Delmarva Christian High School; he stated that they raised over \$2 million and questioned why they ask the County Council for money when they can raise that amount of money.

**M 635 07
Adjourn**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to adjourn at 1:03 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council