



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 5, 2006

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 5, 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
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Assistant to the Administrator
James D. Griffin	County Attorney

M 778 06 Approve Agenda

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda by deleting the Grant Request from the Delaware Agricultural Museum and Village and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

M 779 06 Approve Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of October 24, 2006.

Motion Adopted: 5 Yeas.

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

M 780 06 Approve Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of October 31, 2006.

Motion Adopted: 5 Yeas.

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

**Corre-
spondence
Corre-
spondence
(continued)**

Mr. Griffin read the following correspondence:

**GEORGE KRUPANSKI, PRESIDENT & CEO, BOYS & GIRLS CLUBS
OF DELAWARE, WILMINGTON, DELAWARE.**

**RE: Letter in appreciation of the Council's \$10,000 grant to the Western
Sussex Boys & Girls Clubs of Delaware.**

**University
of Delaware
College of
Agriculture
and Natural
Resources/
Grant
funding**

**Mr. Baker introduced Mark Isaacs, Director of the University of Delaware,
College of Agriculture and Natural Resources, Carvel Research and
Education Center. Mr. Baker announced that in the Fiscal Year 2007
Budget, the Council budgeted \$118,097.00 in grant funding for the College's
programs and that the Council also approved a \$15,000.00 grant to partially
fund a Safety Agent position.**

**Mr. Isaacs thanked the Council for their continued support of the College of
Agriculture and Natural Resources. He stated that the funding has made
additional extension programming and educational opportunities possible,
i.e. the interactive video conferencing facility. The funding also supports
extension program initiatives and crops and poultry research. Mr. Isaacs
noted that the funding for the Safety Agent position would enable them to
expand their programs, especially those related to traffic and farm and
home safety issues. Mr. Issacs advised that the funding will be allocated as
follows:**

Sussex Extension	\$ 65,189
Sussex Poultry Research	14,790
Sussex Crops	26,689
SUS Lasher Lab	<u>11,429</u>
Total	\$118,097

**The County Council presented checks to Mr. Isaacs in the amount of
\$118,097.00 and \$15,000.00.**

**Adminis-
trator's
Report**

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

1. Caroling on The Circle Food Drive

**The Caroling on The Circle Food Drive for the needy in Sussex
County has collected approximately 27,000 food items to be
distributed to 11 food pantries in Sussex County. We would like to
thank each individual that has contributed toward this program to
benefit the needy in Sussex County.**

Food will continue to be collected until Christmas as part of this food drive. Please contact Mr. Ray Webb at 855-7840 for information regarding the pickup and distribution of food.

2. **Beneficial Acceptance**

Adminis-
trator's
Report
(continued)

The County Engineering Department granted Beneficial Acceptance on November 29, 2006, to Heritage Village – Phase I and II, Agreement No. 602. The developer is Thompson - Heritage, L.L.C., and the project is located on Route 1 and Postal Lane in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 147 condominium units. Included with this report is a fact sheet on the project.

3. **Stanley Klein**

We regret to announce that Stanley Klein, a County employee, passed away on November 30, 2006. Mr. Klein worked as a part-time Security Guard for Sussex County Council since May of 1994. Mr. Klein worked in the County Administration Building, as well as the West Complex and Industrial Park as needed.

4. **Punkin Chunkin**

On November 29 and 30, 2006, Mr. Frank Shade, President of the Sussex County Punkin Chunkin Association as well as the County Purchasing Agent, was in New York City for a taping of the Montel Williams Show. He expects this show to be aired in the near future regarding Punkin Chunkin.

Old
Business/
C/Z
No. 1602

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL 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 71.77 ACRES, MORE OR LESS” (Change of Zone No. 1602) filed on behalf of Triple D Double J, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on September 28, 2006 at which time they deferred action; on October 18, 2006 the Commission recommended that the application be denied.

The County Council held a Public Hearing on this application on October 17, 2006 at which time action was deferred.

Mr. Lank, Director of Planning and Zoning, read proposed conditions and

findings of fact, which were prepared for the Council's consideration if the application was approved.

Old
Business/
C/Z
No. 1602
(continued)

Mr. Phillips stated that he is interested in seeing the developer pay for extra density. He noted that, in the past, the Council has discussed the opportunity for increasing density above the zoning allowance (for a fee) through the Density Trade Ordinance whereby the funds would go into a conservation fund. He stated that, for this application, a fee could be charged for the additional density and the money could go into a conservation, school or road fund. Mr. Phillips questioned if there was any way that this could be done with this application.

Mr. Griffin responded that it does not fit within the parameters of the Density Trade Ordinance and a separate ordinance would need to be adopted to permit such action. For this reason, Mr. Griffin offered his opinion that Mr. Phillips' proposal could not be applied to this application.

Mr. Cole questioned how the Council would determine the cost of extra density.

M 781 06
Adopt
Ordinance
No. 1879
(C/Z
No. 1602)

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1879 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL 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 71.77 ACRES, MORE OR LESS" (Change of Zone No. 1602) filed on behalf of Triple D Double J, LLC., with the following conditions:

1. The maximum number of units shall not exceed 265 units, of which no more than 154 duplex units shall be permitted.
2. All entrance, intersection, roadway and multi-modal improvements required by DeIDOT shall be completed by the Applicant in accordance with DeIDOT's requirements, or in accordance with any further modifications required by DeIDOT.
3. No wetlands shall be included within any lot areas.
4. Recreational amenities and facilities shall be constructed and open to use by the residents of the development within 2 years of the issuance of the first building permit. These recreational facilities shall include the clubhouse and swimming pool.
5. A protected school bus shelter shall be provided near the entrance to the development. The location of the protected school bus shelter and related parking shall be subject to the approval of the School District's Transportation Supervisor and shall be subject to site plan

review by the Planning and Zoning Commission.

- 6. A 60-foot wide buffer shall be provided along all property lines and shall include a 30-foot wide minimum landscaped buffer. A landscape plan shall be submitted to the Planning and Zoning Commission when the site plan is reviewed.**

**M 781 06
Adopt
Ordinance
No. 1879
(C/Z
No. 1602)
(continued)**

- 7. The development shall be served as part of an extended County Sanitary Sewer District and shall be constructed in accordance with County Engineering specifications and regulations.**
- 8. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- 9. Stormwater management facilities and erosion and sediment control shall be constructed in accordance with applicable State and County regulations.**
- 10. The Applicant, its successors and/or assigns, including a homeowners or condominium association that will be formed, shall operate the stormwater management facilities in a manner that is consistent with Best Management Practices (BMPs).**
- 11. The Applicant shall cause to be formed a homeowners association or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.**
- 12. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on both sides of the street and street lighting.**
- 13. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. to 6:00 p.m.**
- 14. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.**
- 15. Wetlands shall be maintained as non-disturbance areas; a 50-foot setback shall be provided from all wetlands.**
- 16. Deed restrictions and/or covenants and condominium documents shall reference that agricultural activities exist in close proximity to the site and the Agricultural Protection Notice shall be included in**

the restrictions/covenants and documents.

- 17. The preliminary site plan and the final site plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Nay.

**M 781 06
(continued)**

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

**Appeal of
Lacrosse
Homes of
Delaware,
Inc.**

The Council discussed the appeal of Lacrosse Homes of Delaware (Subdivision No. 2005-12). On September 19, 2006, the County Council held a Public Hearing on an appeal of the Sussex County Planning and Zoning Commission's decision to deny the application of Lacrosse Homes of Delaware, Inc. for the subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 175.07 acres into 350 lots (cluster development), located at the northeast corner of the intersection of Road 227 and Road 229B and east of Road 229 (the Hayfield subdivision).

Mr. Lank, Director of Planning and Zoning, read into the record the Planning and Zoning Commission's reasons for denial.

Mr. Cole asked Mr. Griffin if he had any comments about the reasons provided by the Commission and he questioned if they comply with the County's ordinances and Land Use Plan.

Mr. Griffin referred to the Council's decision to overrule the Commission's decision on the Isaacs Glenn subdivision application and the timing of the Commission's decision on this application. He stated that the Council needs to consider their decision on the Isaacs Glen application; the reasons for the Commission's denial; the Applicant's point-by-point response to each of those reasons; and then, decide if it would be appropriate to overrule the Commission's decision.

Mr. Cole suggested that this matter should be discussed in Executive Session and that Vince Robertson, Assistant County Attorney and legal counsel for the Commission, should attend along with Mr. Griffin.

**M 782 06
Defer
Action on
the
Appeal of
Lacrosse
Homes of
Delaware,**

A Motion was made by Mr. Cole, seconded by Mr. Jones, 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. and to discuss the matter in Executive Session at a later date.

Motion Adopted: 3 Yeas, 2 Nays.

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

Public
Hearing/
LNSSD

A Public Hearing was held to consider extending the Long Neck Sanitary Sewer District (LNSSD) to include parcels of land on the north side of State of Delaware Route (SR) 24 being situate in the Indian River Hundred of Sussex County, Delaware (Route 24 – Northside Expansion).

**Public
Hearing/
LNSSD/
Route 24
Northside
Annexation
(continued)**

Rob Davis, Planning Technician, stated that 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. Davis reported that two developers are proposing three projects and requests were received from the developers to have the projects annexed into the Long Neck Sanitary Sewer District. The three projects are Carillon Square (a retail center), Bay Shore III (a nursing home and medical facility), and DMR Center (a retail center). Five (5) additional parcels were included in the proposed expansion area; the parcels are intervening parcels, which could be served when the developers of the three projects extend sewer service to that side of Route 24. Four of the parcels have single-family dwellings on them; the fifth parcel is a small mobile home park (Timber Acres) consisting of approximately twenty mobile homes.

Mr. Davis reported that the developers of Carillon Square will be required to provide laterals to two (2) parcels that are already in the sewer district but have not yet been served.

Mr. Davis reported that Lena English, the owner of Timber Acres Mobile Home Park, sent a letter to the Engineering Department advising that she had been asked by a tenant to make a request for sewer service and that she would like sewer service when it becomes available. The parcel was included in the proposed expansion area and when the developer of Carillon Square makes the crossing of Route 24, they will be required to extend a sewer line down to the northeast corner of her property at which time she would be able to install the collection system pipelines on the park property and serve each of the individual mobile homes.

Mr. Davis announced that no correspondence, questions or comments were received on the Proposed Route 24 - Northside Expansion.

Public comments were heard.

Willard Davis, a resident of Timber Acres, stated that he is concerned about the time element; that many of the septic systems are failing; that he has to have his septic tank pumped monthly; and that they have been told it may be approximately five years before sewer service will be available.

Rob Davis responded that it would be up to the developers of Carillon Square and that there are no time requirements established as to when they would have to have the infrastructure constructed.

Mr. Cole questioned if the County has the ability to set a deadline on the installation of infrastructure by a developer.

**Public
Hearing/
LNSSD/
Route 24
Northside
Annexation
(continued)**

Lena English, the owner of Timber Acres, stated that she sent the letter referred to by Rob Davis only because she was asked to. She questioned who would pay for all of the installation. Mr. Cole responded “the property owner”. Mrs. English asked how she would get her money back. Mr. Cole responded “through your rents”. She stated that the rents would go up substantially and she doesn’t think her tenants would like it.

In response to questions raised by the Council, Mrs. English stated that she is not really interested in sewer service.

Mr. Baker stated that, in the Long Neck Sanitary Sewer District, the County has a process whereby they bill tenants and that in this case, the County would send quarterly bills to the tenants. He stated that there is a connection charge in the Long Neck Sanitary Sewer District (\$3,078.00), which is charged to recover costs for treatment and transmission. He noted that the property owner would be responsible for running the collection lines which would hook up to the lateral provided by the developer.

Dan Kramer stated that Lena English and Willard Davis deserve to know how much the laterals are going to cost.

Mr. Baker responded that the developer will pay to have the lateral run to the property line; however, the County cannot at this time estimate the cost of collection lines.

Mr. Jones stated that the property owner would have to hire an engineer to determine the cost.

Tran Norwood, who lives at the intersection of Routes 5 and 24, stated that, in 1995, his property was placed in a sewer district; that he had requested not to be put into the district; that he has still not been connected to the district; that he thinks he will have to pay over \$6,000 today as an impact fee compared to approximately \$3,000 in 1995; that if he had known the impact fee would increase so much, he would have paid the fee in 1995; that he would like to know if he can pay the old impact fee; that he doesn’t think he should be penalized for new development; and he questioned if there is some way a time frame can be required from developers.

Rob Davis stated that there is one option to waiting for the developer to construct the infrastructure to serve Timber Acres and that would be for the owner of Timber Acres to pay for infrastructure crossing Route 24 for

connection to the main on the other side; he noted however, that the crossing would be very expensive.

Mr. Cole stated that the County needs to set a time frame for infrastructure construction when an expansion is approved and he questioned if the County has the ability to do that.

**Public
Hearing/
LNSSD/
Route 24
Northside
Annexation
(continued)**

Mr. Davis stated that the County cannot compel connection to the sewer system if the parcel is not served; once sewer service gets to a parcel, then connection can be required (usually within the first year that sewer service is available to the parcel). He noted that sewer service can be extended by the developer, the individual property owner, or by the County.

Mr. Archut stated that there is no wording in State Law allowing the County to place conditions (time frame) on the extension of a sewer district.

Mr. Griffin questioned if action should be deferred to allow time for Mrs. English to meet with her legal counsel and to allow time to consider other questions raised during the Public Hearing.

Mr. Davis stated that requirements could still be met if the Council deferred action until December 12th.

**M 783 06
Defer
Action on
Public
Hearing/
LNSSD/
Route 24
Northside
Annexation**

A Motion was made by Mr. Jones, seconded by Mr. Cole, to defer action on, to leave the record open on, and to continue the Public Hearing on the extension of the Long Neck Sanitary Sewer District (LNSSD) until December 12, 2006.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
DFSSD/
Village of
Pepper
Creek
Annexation**

A Public Hearing was held to consider extending the Dagsboro-Frankford Sanitary Sewer District (DFSSD) to include the lands of Dagsboro Properties, LLC, situate, lying west of Main Street, and being in Dagsboro Hundred.

John Ashman, Director of Utility Planning, stated that the 42.19 acre parcel is contiguous to the existing district; that a portion of the parcel is already in the District and this request is to add the remainder of the parcel; that the parcel is proposed to be developed as the Village on Pepper Creek with 87 single family dwellings.

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

M 784 06

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt

Adopt R 033 06/ DFSSD Village of Pepper Creek Annexation	Resolution No. R 033 06 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE DAGSBORO-FRANKFORD SANITARY SEWER DISTRICT (DFSSD) TO INCLUDE THE LAND OF DAGSBORO PROPERTIES, LLC, SITUATE, LYING WEST OF MAIN STREET, AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, DELAWARE”.
	Motion Adopted: 5 Yeas.
M 784 06 (continued)	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Jones, Yea; Mr. Rogers, Yea
Consultant Selection/ Engineering Services Related to the Review of Plans	<p>Michael Izzo, County Engineer, discussed the consultant selection for engineering services related to the review of plans. He stated that several years ago, the County contracted with CABA Associates to perform plan review services for new subdivision plans submitted to the Engineering Department. Approximately one year ago, a Contract Amendment was presented by the Engineering Department and approved by the Council to increase the fees. Mr. Izzo explained that the Contract expires in December 2006 and that he previously received a directive from the Council to find out if there were other firms willing to do the work.</p> <p>Mr. Izzo reported that the Engineering Department established a Consultant Selection Team and an RFP was advertised. Proposals were submitted by seven firms and the Consultant Selection Team interviewed and ranked the firms. The following three firms were ranked the highest: CABA Associates, Inc., Johnson, Mirmiran & Thompson, and Pennoni Associates, Inc.</p> <p>Mr. Izzo stated that Tom Baker, Director of Public Works, works with CABA Associates for the review of plans. Mr. Baker has stated that CABA has a trained staff and that they work well with the County. Mr. Baker has also stated that the plan review work would be seamless starting with a new contract in January if CABA Associates were selected. Also, as part of their submittal, CABA Associates has agreed to maintain their current rate structure for a three-year period. Based on this information, Mr. Izzo reported that their recommendation is to select CABA Associates for a five-year period; the current contract would be extended for three years and a new contract brought before the Council for the final two years of the contract.</p>
M 785 06 Select Consultant for Plan Reviews/ Engineering	<p>A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the Consultant Selection Team, that CABA Associates be selected to provide plan review services for the Engineering Department for a five-year period effective January 1, 2007, to include the extension of the current contract for a three-year period.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p>

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

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

M 786 06 At 11:53 a.m., a Motion was made by Mr. Jones, seconded by Mr. Dukes, to
Recess recess until 1:30 p.m. Motion Adopted by Voice Vote.
Luncheon The Council attended the Annual Mildred King Luncheon at the CHEER
Center in Georgetown.

Reconvene Mr. Rogers called the Council back into session at 1:36 p.m.

Angola Neck Mr. Archut, Assistant County Engineer, explained that in September 2006,
Phase 1 the Council approved the circulation of petitions for a Phase 1 Service Area
Service for the Angola Neck Area. The three major communities that are proposed
Area/ to be included are: Angola by The Bay, Bay Ridge Woods, and Woods on
North Herring Creek. Mr. Archut noted that Angola Estates and Angola Beach
Coastal Estates have also expressed interest in sewer service and they have also been
Planning included.

Area/
Contract Mr. Archut reported that 269 valid petitions have been received. He advised
Amendment that he will report back to the Council in January with a date and location
No. 3 for the Public Hearing (approximately June 2007). He stated that, until
that time, they would like to get started on the engineering necessary to
come up with cost estimates. For this reason, he requested permission from
the Council to enter into a contract with Whitman, Requardt & Associates
in the amount of \$91,444.00 to perform the wastewater facilities plan and
environmental assessment for the project. This assessment would provide
the information needed to present to the public at the time of the Public
Hearing.

M 787 06 A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the
Execute recommendation of the Sussex County Engineering Department, that the
Contract Sussex County Council President be authorized to execute Contract
Amendment Amendment No. 3 to its original contract with Whitman, Requardt &
for the Associates, L.L.P., for the North Coastal Planning Area for Angola Neck
North Phase 1 Service Area Facilities Plan and Environmental Assessment at a
Coastal cost not to exceed \$91,444.00.
Planning

Area/ Motion Adopted: 5 Yeas.
Angola

Neck Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Phase 1 Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

EOC Michael Izzo, County Engineer, presented Change Order Nos. 2, 3 and 4 for
Project the Sussex County Emergency Operations Center Project:
Change

- Orders**
- ❖ **Change Order No. 2 is a credit change order. A roof drain was added to the project which eliminated some site work (+\$500.00).**
 - ❖ **Change Order No. 3 is a time extension of 20 days, due to inclement weather.**
 - ❖ **Change Order No. 4 totals \$8,741.00 and consists of four components: heating units in the bathroom were moved, increased size of air return grills and duct system servicing heating and air conditioning system; additional wall hydrant to north exterior wall of the building; and reconstruct structural steel frame of the building.**
- (continued)**

M 788 06
Approve
Change
Orders/
EOC
Project

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department and its Consultant, L. Robert Kimball and Associates, that Change Order Nos. 2, 3, and 4 for Sussex County Project No. 04-02, Emergency Operations Center Building, be approved, which extends the contract time by 20 calendar days due to inclement weather and increases the contract amount by \$8,237.57, for a new total of \$7,141,416.57.

Motion Adopted: 5 Yeas.

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

Ocean
Outfall
Inspection
Contract
Change
Order

Heather Sheridan, Director, Division of Environmental Services, presented Change Order No. 1 to the Ocean Outfall Inspection Contract. She stated that the South Coastal Regional Wastewater Facility discharges its treated effluent into the ocean via the Ocean Outfall. In September 2005, a contract was awarded to T & J Marine to do an underwater investigation of the outfall to determine the structural integrity and to determine if any maintenance items were necessary. Ms. Sheridan reported that, during the inspection, the divers found marine growth and proceeded with extensive cleaning of the pipeline, manholes, etc. They found that only 7 of the 40 four-inch ports were open; these were power-washed and opened up at a cost of \$23,500.00. The divers also found that there were 24 missing or broken bonding wires. Ms. Sheridan stated that they asked for a proposal from T & J Marine for them to address the necessary maintenance items. A proposal was received in the amount of \$65,660.25.

M 789 06
Approve
Change
Order/
Ocean
Outfall
Inspection
Contract

A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Change Order No. 1 in the amount of \$89,160.25 for Contract No. 03-01, Ocean Outfall Inspection, to perform repairs to the Cathodic Protection System and for the removal of the blind flanges of the ports on the diffuser.

Motion Adopted: 5 Yeas.

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

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

M 790 06 Grant A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$1,000.00 from Mr. Dukes' Community Investment Grant Account to the Greater Seaford Chamber of Commerce for the Captain John Smith Shallop Landing in Blades/Seaford.

M 790 06 Community Investment Grant (continued)

Motion Adopted: 5 Yeas.

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

M 791 06 Community Investment Grant A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$8,000.00 (\$5,000.00 from Mr. Dukes', \$2,000.00 from Mr. Jones', and \$1,000.00 from Mr. Phillips' Community Investment Grant Accounts) to the Seaford Mission for operating costs.

Motion Adopted: 5 Yeas.

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

M 792 06 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Henlopen Theater Project for operating costs.

Motion Adopted: 5 Yeas.

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

M 793 06 Community Investment Grant A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$2,000.00 from Mr. Cole's Community Investment Grant Account to the City of Rehoboth Beach for playground construction costs.

Motion Adopted: 5 Yeas.

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

M 794 06 A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$1,000.00

Councilmanic Grant (\$200.00 from each Councilmanic Grant Account) to Delaware Technical & Community College for two \$500.00 scholarships to the Environmental Training Center.

Motion Adopted: 5 Yeas.

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

M 795 06 Youth Activity Grant A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 from Mr. Dukes' Youth Activity Grant Account to Troop 249, Boy Scouts of America, for camping equipment.

Motion Adopted: 5 Yeas.

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

M 796 06 Youth Activity Grant A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$500.00 (\$100.00 from each Youth Activity Grant Account) to the Eastern Shore Lady Cats for operating expenses.

Motion Adopted: 5 Yeas.

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

M 797 06 Councilmanic Grant A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$500.00 from Mr. Jones' Councilmanic Grant Account to the Georgetown Public Library for their new library construction fund.

Motion Adopted: 5 Yeas.

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

M 798 06 Community Investment Grant A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$1,000.00 from Mr. Jones' Community Investment Grant Account to Kent-Sussex Industries, Inc. (KSI) for transportation program expenses.

Motion Adopted: 5 Yeas.

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

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

Introduction of Proposed Ordinances **Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PLUMBING BUSINESS AND RELATED STORAGE AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.623 ACRES, MORE OR LESS” (Conditional Use No. 1726) filed on behalf of Leonard A. Stutzman.**

Introduction of Proposed Ordinances (continued)

Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (44 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 7.51 ACRES, MORE OR LESS” (Conditional Use No. 1727) filed on behalf of Ameri-Star Homes.

Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE STORAGE AND STEEL TRUSS MANUFACTURING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 24.83 ACRES, MORE OR LESS” (Conditional Use No. 1728) filed on behalf of MTC Properties.

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 43,558 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1729) filed on behalf of Page Melson.

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 20,000 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1730) filed on behalf of Page Melson.

Mr. Rogers introduced the Proposed Ordinance entitled “AN

ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE AND SHOP FOR A WELL DRILLING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.99 ACRES, MORE OR LESS” (Conditional Use No. 1731) filed on behalf of White Water Enterprises, Inc.

**Introduction
of Proposed
Ordinances
(continued)**

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE STORAGE OF DUMP TRUCKS, DELIVERY TRUCKS, AND MATERIALS RELATED TO A PLUMBING AND HVAC BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.4187 ACRES, MORE OR LESS” (Conditional Use No. 1732) filed on behalf of Mabethson, LLC.

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MULTI-PURPOSE SPORTS FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.8683 ACRES, MORE OR LESS” (Conditional Use No. 1733) filed on behalf of Edward A. O’Brien and Janet L. O’Brien.

Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR WAREHOUSING AND STORAGE OF EQUIPMENT FOR AN ENVIRONMENTAL CONSULTING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10,000 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1734) filed on behalf of Todd and Kelly Fritchman.

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AIRPORT AND HELIPORT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 28.55 ACRES, MORE OR LESS” (Conditional Use No. 1735) filed on behalf of Richard and Sonya West.

Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO EXPAND CONDITIONAL USE NO. 1068 TO INCLUDE TOWING SERVICE AND STORAGE OF VEHICLES AND BOATS TO BE LOCATED ON A

CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS” (Conditional Use No. 1736) filed on behalf of Matthew and Karen Weidmann.

**Introduction
of Proposed
Ordinances
(continued)**

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 18,220 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1619) filed on behalf of Thomas and Cheryl Hicks.

Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.038 ACRES, MORE OR LESS” (Change of Zone No. 1620) filed on behalf of Bob’s Marine Service, Inc.

The Proposed Ordinances will be advertised for Public Hearing.

**Additional
Business/
Concerns
of Paul
Blust/
Parking of
Unlicensed
Vehicles**

Under *Additional Business*, Paul Blust, 33232 Mercer Avenue, Millsboro, referred to the County’s Ordinance regarding parking of unlicensed vehicles. He stated that the Ordinance permits two unlicensed vehicles per lot. He stated that they spoke to the Constable’s Office and they have been told that the Constable’s Office has issued warrants/citations on this issue on numerous occasions. He advised that, according to the Constable’s Office, there is nothing that can be done because the owner of the property is out of state. Mr. Blust stated that the lot he is complaining about is located in Oak Orchard and that there are at least eleven (11) vehicles, boats, etc. on the lot. Mr. Blust asked the Council to uphold the powers of the County in accordance with the Code by having the vehicles removed from the property and a lien placed on the property for the costs incurred by this action.

Mr. Griffin stated that he would speak with the Constable’s Office regarding this issue.

Mr. Cole stated that the Council needs to come up with a procedure for enforcement.

There was no additional business brought before the Council.

Mr. Baker and Mrs. Webb left the meeting.

**Public
Hearing**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1

(C/U
No. 1669)

AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO RESTORATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.223 ACRES, MORE OR LESS” (Conditional Use No. 1669) filed on behalf of David A. Peterson.

**Public
Hearing
(C/U
No. 1669)
(continued)**

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the application on November 16, 2006 at which time they deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated November 16, 2006 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

The Council found that David Peterson of Woods Lane, Laurel, was present on behalf of his application. He stated that he proposes to start an auto restoration business for him and his son to pursue; that he enlisted the aid of the Small Business Office in Georgetown and that he followed their requirements.

Mr. Dukes stated that there is a discrepancy regarding who owns the road and he questioned the applicant as to whether or not he has an agreement granting him access to the property.

Mr. Peterson responded that when he purchased the property, he agreed to an easement access to the property; that in order for him to get a mortgage, he had to sign a Maintenance Agreement; that it was his understanding that when someone purchased the 33 acres in the back, that they would jointly maintain the road; that to this date, Scott Heffner (the owner of the 33 acres) maintains the road; and that he shares in the cost of necessary materials.

Mr. Dukes questioned Mr. Peterson about the eight untagged “junk” vehicles that are on the property, which are in violation of County Ordinance.

Mr. Cole suggested that the Conditional Use may allow these vehicles for restoration purposes; that the Council could require a screened impound area; and that the Applicant may want to do a new drawing/site plan showing how the cars would be “corralled”.

Public comments were heard.

Scott Hevner stated that he also lives on Woods Lane; that he purchased the 33-acre parcel in 1998; that this parcel includes, in fee, the 55-foot private road that runs from his property to Route 9; that he purchased a 5-acre

Public
Hearing
(C/U
No. 1669)
(continued)

unimproved parcel in 2006 that borders the south property line of the parcel in question as well as the private road; that prior to his purchase of the 33-acre and the 5-acre parcel, a Private Road Maintenance Agreement was drafted and signed by Marchus and Elizabeth Adams, David and Rhonda Peterson, and James and Linda Russell; that they agreed to split the cost of maintaining the private road; that the Agreement does not address the fact that the private road belongs to the owner of the 33-acre parcel; that he hired an attorney who researched the history of the document and adjacent deeds and the attorney could not find anything in the Office of the Recorder of Deeds that grants access from the properties bordering the private road; that he is not contesting the legalities of access to the property in question; however, since he does own the road, it should be considered in the decision of the Council; that he has concerns about granting conditional use for auto restoration to the 2-acre parcel; that he does not want a sign advertising the business placed at the end of the private road (along Route 9); that he does not want vehicles placed for sale or parked at the end of the private road; that he is concerned about additional traffic on the private road; that the road is constructed of fill dirt and stone and needs to be graded frequently; that he is afraid more use would create the need for more maintenance; that he is concerned about the impact of an auto restoration business on property values; that he is already concerned that the number of vehicles on the site negatively affects property values; that he is concerned about the potential environmental impact issues – paint fumes and potential fire hazards; that it is his understanding that no final painting of vehicles is being proposed, only primer painting; and that there is concern about an auto restoration business next to an existing residential – agricultural community.

Mr. Hevner read a list of conditions that the Council has imposed on similar applications.

Mr. Hevner distributed a copy of his Deed along with a copy of the Private Road Maintenance Agreement

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

M 799 06
Defer
Action on
C/U
No. 1669

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to defer action on Conditional Use No. 1669, filed on behalf of David A. Peterson.

Motion Adopted: 4 Yeas, 1 Absent.

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

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

Public
Hearing
(C/U

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SEWER

No. 1711) TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 13.41 ACRES, MORE OR LESS” (Conditional Use No. 1711) filed on behalf of Artesian Water Company, Inc.

**Public
Hearing
(C/U
No. 1711)
(continued)** Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the application on November 16, 2006 at which time they deferred action, as requested by the Applicant and the County Engineer. The basis of this request is that Tidewater Utilities, Artesian Water Co. and the County all have treatment and disposal facilities planned for the Piney Point Peninsula and that the extra time gained by deferring this request will allow all three parties an opportunity to compile a coordinated wastewater plan for this area.

(See the minutes of the meeting of the Planning and Zoning Commission dated November 16, 2006 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

Exhibit Booklets provided by the Applicant were distributed to the Council.

Dennis Schrader, Attorney; was present with Jack Schreppler, Vice President and General Counsel for Artesian Water Company; Rodney Wyatt, Engineer and Director of Operational Compliance for Artesian Resources; and Scott Towler, Engineer for Artesian Water Company. They stated that the property is located at the Landings of Pepper Creek in Dagsboro; that the acreage of the site proposed for the wastewater treatment plant is 13.41 acres and is located in an AR-1 Agricultural Residential District; that the Landings of Pepper Creek was approved as a cluster subdivision on July 27, 2006 for 125 units; that the present use of the property (controlled by Artesian) is to serve 125 EDUs with a 95,000 gallon per day capacity wastewater treatment and disposal system; that Artesian Water Company is a regulated wastewater treatment facility recognized by both DNREC and the Public Service Commission; that this application, if approved, would result in the potential for 1,000 to 1,250 EDUs being treated; that they propose a regional wastewater treatment facility that would increase in capacity from 90,000 gallons per day (as currently permitted) to 300,000 gallons per day in order serve adjacent property owners that may need or want wastewater treatment; that the site will be made aesthetically appealing; that the wastewater will be treated to a level better than drinking water standards; that there are six basins for distribution with buffers around the basins; that all sewer lines will be built to County standards; that one of the benefits of this proposal is that the area can be served with less treatment plants; that they understand this is within a County planning area; that if the County decides to provide sewer service to the area, they are prepared to abandon their facility and turn the system over to the County.

Public Hearing (C/U No. 1711) (continued)

Public comments were heard. Dave Brelsford, John Hocker, Phillip Krolczyk, Sally Bradshaw, and Debra Stevenson spoke in opposition to the application. They expressed concern about environmental issues, odors, water quality, and traffic; that a sewer plant already exists down the road; that property values may be negatively affected; that the use is inappropriate in a residential area; that it should be constructed in Pepper Creek; that treatment plants run 24 hours a day, seven days a week; that they question what will be done with the sludge; that they received a letter containing a petition in the mail stating “Artesian Water Company” and nothing was said about wastewater treatment; that when the County comes to the area, there will be three wastewater plants on one small peninsula; that they are opposed to the expansion; and that if a development wants to expand, they should keep the wastewater treatment facility in that development.

**M 800 06
Defer
Action on
C/U
No. 1711**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to defer action on Conditional Use No. 1711) filed on behalf of Artesian Water Company, Inc.

Motion Adopted: 5 Yeas.

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

Public Hearing (C/U No. 1717)

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STATE HEALTH CARE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 701.59 ACRES, MORE OR LESS” (Conditional Use No. 1717) filed on behalf of the State of Delaware Division of Facilities Management.

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the application on November 16, 2006 at which time they recommended that the application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated November 16, 2006 for additional information on the application, correspondence received, the Public Hearing before the Commission, and the Commission’s recommendation of approval.)

Mr. Lank read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

William Davis was present on behalf of the application. He stated that the application is for a State Health Care Facility; that currently, the existing medical center is beyond serviceable and needs an extensive amount of

work; that it would be impossible to perform the necessary work and still occupy the facility and therefore, they are proposing a new facility; and that some of the other operations at Stockley will be consolidated into the one building.

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

**M 801 06
Adopt
Ordinance
No. 1880
(C/U
No. 1717)**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt Ordinance No. 1880 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STATE HEALTH CARE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 701.59 ACRES, MORE OR LESS” (Conditional Use No. 1717) filed on behalf of the State of Delaware Division of Facilities Management.

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(C/U
No. 1718)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL SEWER TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.91 ACRES, MORE OR LESS” (Conditional Use No. 1718) filed on behalf of Artesian Water Company, Inc.

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on November 16, 2006 at which time they deferred action. On November 30, 2006, the Commission recommended that the application be approved 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 the Delaware Department of Natural Resources and Environmental Control, 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.

Public
Hearing
(C/U
No. 1718)
(continued)

- 4) The facilities and infrastructure shall 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) Treated wastewater from the other developments shall be returned by the sanitary waste treatment at Heron Bay to the developments for final disposal. Each development is responsible for the disposal of their own treated effluent.
- 6) Treated wastewater from other developments will not be dispersed/disposed of by the Rapid Infiltration Basins at Heron Bay. The Rapid Infiltration Basins at Heron Bay are to be used solely for the disposal of treated wastewater from Heron Bay.
- 7) The final site plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

(See the minutes of the meeting of the Planning and Zoning Commission dated November 16 and 30, 2006 for additional information on the application, correspondence received, the Public Hearing before the Commission, and the Commission's recommendation of approval.)

Mr. Lank read a summary of the Commission's Public Hearing. The summary was admitted as part of the Council's record.

Exhibit Booklets provided by the Applicant were distributed to the Council.

Dennis Schrader, Attorney; was present with Jack Schreppler, Vice President and General Counsel for Artesian Water Company; Rodney Wyatt, Engineer and Director of Operational Compliance for Artesian Resources; and Scott Towler, Engineer for Artesian Water Company. They stated that Artesian Water Company, Inc. is a regulated utility of the State of Delaware with Certificates of Public Convenience and Necessity and the approval of DNREC for certain wastewater treatment plants Statewide; the proposed site of this application consists of 8.91 acres and is located in the Herring Bay Subdivision in an AR-1 Agricultural Residential District; that it currently could serve 325 EDUs with a 97,600 gallons per day capacity; that they propose to increase the service capacity to 1,330 EDUS with a disposal of 400,000 gallons per day; that the site is a proper place for a regional wastewater treatment plant since it is not in a Sussex County Planning or Study Area and that it is an efficient and cost-effective way to provide service to several subdivisions instead of each subdivision having its own treatment facility; that the treatment facility is at least 300-feet from any dwelling of other ownership; that the building is proposed to be 102 x 77 and a building permit has been issued; that the expansion would be phased; that the total expansion of the project may take 25 years; that they propose six rapid infiltration basins; that the lines would be built in accordance with County specifications; that they have the consent of Heron Bay to make this application and to expand the plant; and that the proposal is for the public benefit, welfare and convenience of area residents.

Mr. Schrader referred to the proposed conditions of the Planning and Zoning

Commission. He asked that the Council to consider deleting Conditions Nos. 5 and 6.

Public comments were heard. Paul Jones, a Licensed Engineer, spoke on behalf of Oakwood Village Subdivision in support of the application. He stated that the subdivision would be better served by a regional treatment facility compared to several small facilities since the operational costs would be less with a central system and that it would be an economic benefit to the users overall.

**Public
Hearing
(C/U
No. 1718)
(continued)**

Lee Robinson of Conley Chapel Road, a property owner adjacent to Oakwood Village, also spoke in support of the application. He stated that the proposal would enhance property values in the area.

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

**M 802 06
Adopt
Ordinance
No. 1881
(C/U
No. 1718)**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt Ordinance No. 1881 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL SEWER TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.91 ACRES, MORE OR LESS” (Conditional Use No. 1718) filed on behalf of Artesian Water Company, Inc., 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 the Delaware Department of Natural Resources and Environmental Control, 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 shall 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: 5 Yeas.

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

**M 803 06
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 3:52 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

**Robin A. Griffith
Clerk of Council**