



# SUSSEX COUNTY COUNCIL

## AGENDAS & MINUTES

### SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 9, 2008

#### Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 9, 2008 at 1:00 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

#### M 864 08 Amend and Approve Agenda

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the Agenda by deleting "Approval of Minutes", Wastewater Service Agreement", and "Introduction of Proposed Ordinances"; to change the location of dinner at 4:30 p.m. to Lighthouse Landing Restaurant at the Airport"; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

#### Corre- spondence

Mr. Griffin read the following correspondence:

**SUSSEX COUNTY FARM BUREAU, MILTON, DELAWARE.**

**RE: Letter in support of the Council's decision to file a lawsuit against DNREC concerning the Pollution Control Strategies.**

**DELAWARE HOSPICE, GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of the Council's grant in support of the 2008 Delaware Hospice Festival of Trees.**

**BOB WIENER, COUNCILMAN, NEW CASTLE COUNTY,**

**WILMINGTON, DELAWARE.**

**RE: Copy of a letter sent to Senator Nancy Cook and Senator William A. Oberle, Jr. regarding Paramedic State Funding for Fiscal Year 2010, asking that they consider supporting the Delaware Association of Counties' position.**

**(continued) DALE DUKES, COUNCILMAN, SUSSEX COUNTY COUNCIL, LAUREL, DELAWARE.**

**RE: A letter to all Sussex County employees expressing his gratitude for their work and expressing holiday wishes.**

**Bluewater  
Wind  
Proposal**

**Rob Propes presented an overview of Bluewater Wind's proposed offshore wind park. He stated that the project is the only way to produce significant amounts of clean, reliable electricity for Delaware, from Delaware, and that an offshore wind park for Delaware would create jobs and provide the long-term price stability that Delaware has lost since the deregulation of electricity rates. He stated that this project would provide Delmarva Power's residential and small business customers with approximately 29% of the energy they use from clean, renewable, stable-priced wind power. While gas and coal prices continue to rise unpredictably, the wind park would guarantee stable prices for 25 years.**

**Mr. Propes reported that an organization called the Minerals and Management Service, a Federal agency, issued draft rules and an environmental assessment for locating off-shore wind energy facilities in Federal waters; the draft rules are expected to be finalized in December 2008. He also reported that the Governor of the State of Maryland has expressed interest in the State procuring energy from the Delaware Project.**

**Mr. Proposed reported that, on July 31, 2008, Bluewater Wind received approval for a contract with Delmarva Power and they have now entered the permitting phase of the project. Mr. Propes advised that Bluewater Wind will continue to meet with State and Federal agencies on the permitting process. He reported that the 230 and 450 megawatts project will use approximately 150 turbines; the closest turbine would be approximately 13 highway miles east of Rehoboth; the energy would be brought ashore to the Bethany area; and the electrical connection would be made to the Indian River sub-station. An anticipated construction start date is the end of 2011/first quarter 2012. Depending on the size of the project, it could be completed in one to two years. The cost range of the project will be \$800 million to \$1.5 billion.**

**Personnel  
Board**

**Mr. Baker reported that two of the three expired appointments on the Personnel Board were renewed at the December 2nd meeting, leaving one opening on the Board.**

**M 865 08**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to appoint**

**Appoint-  
ment to  
Personnel  
Board**

**Dave Kenton to the Personnel Board for a term of three years.**

**Motion Adopted: 5 Yeas.**

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

**Dog  
Control  
Program**

**Mr. Baker updated the Council on the Dog Control Program. He advised that the State of Delaware continues to be responsible for the administrative powers and duties relating to dogs and dog control although the counties are covering the net cost of the program. In Sussex, the cost was approximately \$600,000 this past year. DNREC and the General Assembly have indicated that they want the counties to take over the administrative functions of dog control as of July 1, 2009; however, Delaware Code does not give the Counties that ability. For this reason, DNREC has had legislation drafted to change Delaware Code to transfer the powers and duties of dog control to each County. Currently, the State has a three-year contract with Kent County SPCA which expires June 30, 2009; Kent County SPCA has expressed interest in renewing the contract. DNREC and the State have agreed that the proposed date of July 1, 2009 does not provide sufficient time to have appropriate legislation passed and for each county to establish a dog control program. If the draft legislation is approved, the counties would have to issue RFPs for the service or establish their own programs. Mr. Baker suggested supporting a one-year extension of the State's contract with Kent County SPCA and of the proposed legislation to allow time for the counties to properly take over this responsibility.**

**It was the consensus of the Council to send a letter to DNREC and the State requesting additional time to establish a dog control program and to support extending the State's contract with Kent County SPCA for one year, until June 30, 2010.**

**Adminis-  
trator's  
Report**

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

**1. Caroling on The Circle Food Drive**

**We are pleased to announce that the Caroling on The Circle Food Drive has been very successful given the difficult economic times. This year close to 27,000 food items have been collected as of this time for distribution to local food banks throughout Sussex County. Approximately 7,600 food items were collected from Sussex County schools.**

**We wish to thank everyone who assisted with the Caroling on The Circle program and raising food items for the needy. Additional food items are still being collected and distributed. Please contact Mr. Frank Shade at 854-5382 if you would like to donate additional**

Adminis-  
trator's  
Report  
(continued)

items.

2. **Luncheon for County Employees**

Retiring Councilmen Finley Jones, Lynn Rogers, and Dale Dukes will be sponsoring a luncheon for County employees at the Georgetown Fire Hall from 11:30 a.m. to 1:30 p.m. on Wednesday, December 10, 2008. On behalf of the County employees, we wish to thank you in advance for your years of service and for your hospitality in recognition of employee efforts.

3. **Annual Mildred King Employee Luncheon**

As per the attached News Advisory, Sussex County offices will be closed on Friday, December 12, 2008, at 11:00 a.m. so that employees may attend the annual Mildred King Christmas Luncheon. County offices will reopen promptly at 1:00 p.m. on December 12.

4. **Private Road Agreement Status**

The proposed Private Road Agreement has been sent to developers and engineers for comments. The Engineering Department is still accepting comments regarding this draft agreement. In January, the County Engineer will, after making changes as a result of these comments, bring the agreement back to the County Council for consideration. Previous comments from engineers, developers, etc., were considered in drafting the agreement, which is intended to mirror the agreement already in place for sewer and water projects.

5. **Beneficial Acceptance**

The Engineering Department granted Beneficial Acceptance to Bay Forest – Phase 1.5A, Agreement No. 913, on December 8, 2008. The developer is Bay Forest, L.L.C., and the project is located on the east side of White's Neck Road and north of Old Mill Road in the Millville Expansion of the Bethany Beach Sanitary Sewer District, consisting of 43 single-family lots. Included with this report is a fact sheet on the project.

6. **Judith Dickerson Retirement**

Judith Dickerson, who has worked for Sussex County Council since July 16, 1973, has announced her retirement as of December 15, 2008. She currently works in the Recorder of Deeds office. We wish her the best of luck in the future and thank her for her 35 years of service.

Deposit

Mrs. Webb presented Proposed Resolutions authorizing the opening of

**Accounts**                      **Deposit Accounts for Employee Pension Plan and Post Employment Benefit Plan funds.**

**M 866 08**                      **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt**  
**Adopt**                      **Resolution No. R 025 08 entitled “AUTHORIZING THE PAYMENT**  
**Resolution**                      **FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT**  
**M 866 08**                      **WITH THE WILMINGTON TRUST COMPANY BEARING THE**  
**Adopt**                      **SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT;**  
**Resolution**                      **LYNN J. ROGERS, VICE PRESIDENT; OR SUSAN M. WEBB,**  
**No.**                      **FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE**  
**R 025 08**                      **PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR**  
**(continued)**                      **WITHDRAWAL”.**

**Motion Adopted:        5 Yeas.**

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

**M 867 08**                      **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt**  
**Adopt**                      **Resolution No. R 026 08 entitled “AUTHORIZING THE PAYMENT**  
**Resolution**                      **FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT**  
**No.**                      **WITH THE WILMINGTON TRUST COMPANY BEARING THE**  
**R 026 08**                      **SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT;**  
**LYNN J. ROGERS, VICE PRESIDENT; OR SUSAN M. WEBB,**  
**FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE**  
**PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR**  
**WITHDRAWAL”.**

**Motion Adopted:        5 Yeas.**

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

**Wastewater**                      **Mr. Godwin presented a Wastewater Agreement for the Council’s**  
**Agreement**                      **consideration.**

**M 868 08**                      **A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the**  
**Approve**                      **recommendation of the Sussex County Engineering Department, for Sussex**  
**Wastewater**                      **County Project No. 81-04, Agreement No. 740, that the Sussex County**  
**Agreement/**                      **Council execute a Construction Administration and Construction**  
**Bethany**                      **Inspection Agreement between Sussex County Council and Bethany Woods,**  
**Woods**                      **LLC, for wastewater facilities to be constructed in Bethany Woods, located**  
**in the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District.**

**Motion Adopted:        5 Yeas.**

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

**Grant Requests** Mr. Godwin presented the following Local Law Enforcement Grant requests:

<b>Local Law Enforcement Grant Requests (continued)</b>	<b>Bridgeville</b>	<b>\$25,000</b>	<b>Printers for vehicles, Digital ID System, LED Light Bar, Vehicle Striping, and Bullet Proof Vests</b>
	<b>Milton</b>	<b>\$25,000</b>	<b>Leased Police Vehicle Payments and Fuel for Police Vehicles</b>

**M 869 08 Approve Local Law Enforcement Grants** A Motion was made by Mr. Rogers, seconded by Mr. Cole, that the Sussex County Council approves the Local Law Enforcement Grants to the Town of Bridgeville and the Town of Milton, as presented.

**Motion Adopted:** 5 Yeas.

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

**Shipbuilders LLC MPHU Program Request** William Lecates and Brandy Bennett of the Sussex County Community Development and Housing Department presented an application for preliminary approval under the Moderately Priced Housing Unit Program. The Applicant/Developer is Shipbuilders, LLC; the Builder is Rehoboth Builders, LLC (self); the project location is Ellendale; public water would be provided by Artesian; sewer would be provided by Sussex County; there would be complete ownership of the property; the proposed zoning is MR-RPC; there would be no density bonus granted by the County; there would be an expedited review; the Applicant proposes that the land will be annexed into the Town of Ellendale; the total acreage is 141 acres; the total number of market rate units is 297 - 252 single family (ranging from \$152,000 - \$192,000) and 72 townhomes (ranging from \$138,000 - \$148,000); the total number of MPHUs is 45 - 23 single family (ranging from \$139,000 - \$179,000) and 22 townhomes (ranging from \$125,000 - \$134,000); the Applicant applied for Tier B (middle income range) however the two bedroom townhomes and single family prices reflect Tier C pricing; the Developer has agreed to maintain the exact prices when the units become available as opposed to the prices being updated every year; the Developer has also agreed to extend the priority marketing period to 270 days; the MPHUs will be integrated among the other single family homes and townhomes; there will be five phases of development; and the Developer is offering MPHU homeowners a \$7,500 allowance to be used for closing/settlement costs and/or to bring down the price of the home.

**M 870 08 Grant Preliminary Approval/ Shipbuilders LLC (MPHU)**      **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council grants preliminary approval for the MPHU application of Shipbuilders, LLC, contingent on the Applicant obtaining zoning approval for their project and signing a MPHU Agreement prepared by the County Attorney.**

**M 870 08 (continued)**      **Motion Adopted:      4 Yeas, 1 Absent.**  
                                 **Vote by Roll Call:      Mr. Cole, Yea; Mr. Phillips, Absent;**  
                                 **Mr. Dukes, Yea; Mr. Rogers, Yea;**  
                                 **Mr. Jones, Yea**

**(Mr. Phillips was out of the room during the vote.)**

**West Complex Generator Project**      **Gene Kelly, Project Engineer, presented Change Order No. 1 for the West Complex Generator Project, Sussex County Project No. 08-01, completed by Zober Contracting Services. He stated that, coupled with the Change Order in the amount of \$950.00, is a contract time extension due to the date of delivery of the generator.**

**M 871 08 Approve Change Order/ West Complex Generator Project**      **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Sussex County Project No. 08-01, West Complex Generator, be approved in the amount of \$950.00 which increases the total Contract sum from \$98,250.00 to \$99,200.00 and also extends the term of the Contract by 40 days.**

**Motion Adopted:      5 Yeas.**

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

**M 872 08 Grant Substantial Completion/ West Complex Generator Project**      **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council grant Substantial Completion to Zober Contracting Services effective November 14, 2008 for Sussex County Project No. 08-01, West Complex Generator, and that final payment be made and any held retainage be released in accordance with the terms and conditions of the Contract documents.**

**Motion Adopted:      5 Yeas.**

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

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

**M 873 08**      **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$500.00**  
**Community**      **from Mr. Dukes' Community Grant Account to the Town of Blades for the**  
**Grant**            **Kids Christmas Bazaar.**

**Motion Adopted:      4 Yeas, 1 Nay.**

**M 873 08**      **Vote by Roll Call:      Mr. Cole, Yea; Mr. Phillips, Nay;**  
**(continued)**      **Mr. Dukes, Yea; Mr. Rogers, Yea;**  
                    **Mr. Jones, Yea**

**M 874 08**      **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$2,000.00**  
**Community**      **(\$1,000.00 each from Mr. Cole's and Mr. Phillips' Community Grant**  
**Grant**            **Accounts) to the Indian River Boys Basketball Boosters for uniforms and**  
                    **banquet expenses.**

**Motion Adopted:      5 Yeas.**

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

**M 875 08**      **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00**  
**Community**      **(\$100.00 from each Community Grant Account) to Lower Delaware Autism**  
**Grant**            **Foundation for program and services in Sussex County.**

**Motion Adopted:      4 Yeas, 1 Nay.**

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

**M 876 08**      **A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give**  
**Community**      **\$400.00 (\$250.00 from Mr. Phillips' and \$150.00 from Mr. Dukes'**  
**Grant**            **Community Grant Accounts) to North Laurel Elementary School to**  
                    **sponsor the Sport Stacking Championship.**

**Motion Adopted:      3 Yeas, 1 Nay, 1 Absent.**

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

**(Mr. Cole was out of the room during the vote.)**

**M 877 08**      **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$500.00**  
**Community**      **from Mr. Rogers' Community Grant Account to the Cape Henlopen Food**  
**Grant**            **Basket for needy families.**



**Motion Adopted: 4 Yeas, 1 Nay.**

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

**M 878 08**      **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give**  
**Community**      **\$1,000.00 from Mr. Rogers' Community Grant Account to the Greater**  
**Grant**            **Lewes Foundation for the FutureScan project.**

**Motion Adopted: 4 Yeas, 1 Nay.**

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

**M 879 08**      **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$500.00**  
**Community**      **from Mr. Rogers' Community Grant Account to Cape Henlopen High**  
**Grant**            **School for the Sussex County Science Fair.**

**Motion Adopted: 4 Yeas, 1 Nay.**

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

**M 880 08**      **A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give**  
**Community**      **\$750.00 from Mr. Phillips' Community Grant Account to the Laurel**  
**Grant**            **Historical Society for the Cook House Painting Fund.**

**Motion Adopted: 4 Yeas, 1 Nay.**

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

**M 881 08**      **At 2:20 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to**  
**Recess**           **recess the Regular Session and go into Executive Session for the purpose of**  
**Regular**          **discussion Pending/Potential Litigation and Property Acquisition.**  
**Session and**

**go into**  
**Executive**  
**Session**

**Motion Adopted: 5 Yeas.**

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

**Executive**      **At 2:22 p.m., an Executive Session of the Sussex County Council was held in**

**Session** the County Administrator's Office for the purpose of discussing Pending/Potential Litigation and Property Acquisition. The Executive Session concluded at 2:55 p.m.

**M 882 08**      **At 2:57 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Rogers, to**  
**Reconvene**      **come out of Executive Session and to reconvene the Regular Session.**

**M 882 08            Motion Adopted:        5 Yeas.**

**(continued)**

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

<p><b>Appeal/ Subdivision No. 2006-73</b></p>	<p>The Council considered an Appeal filed on behalf of Anthony Sposato regarding the Whispering Meadows Subdivision Application, Subdivision No. 2006-73, an application for the cluster subdivision of 261.99 acres, more or less, into 400 lots. Mr. Baker reported that the Applicant is appealing the decision of the Planning and Zoning Commission of August 20, 2008; on that date, the Commission granted approval of the cluster subdivision, subject to conditions, which included reducing the number of lots to 324. Mr. Baker advised that the Appeal questions the Commission's ability to reduce the maximum number of lots from 400 to 324.</p>
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**Mr. Baker stated that the transcript of the proceedings before the Planning and Zoning Commission was previously received and reviewed by the Council; however, he noted that there was one concern regarding the transcript – the timeliness of the receipt of the transcript. In accordance with County Ordinance the transcript was supposed to be received by October 20, 2008, 30 days following the filing of the Appeal on (September 18, 2008). The transcript was filed on November 4, 2008. The Applicant’s Attorney stated that the reason for the delay is that they had difficulty obtaining the services of a Court Reporter who could produce the transcript within thirty days.**

**Mr. Griffin advised that the Council would need to make a decision regarding whether or not to accept the transcript.**

**Mr. Cole expressed concern about setting a precedent of accepting transcripts that were submitted late.**

**Mr. Rogers stated that the Council may wish to consider amending the Ordinance to extend the 30 day time period to 60 days or more, allowing more time for the preparation and submission of a transcript.**

**M 883 08**      **A Motion was made by Mr. Cole that the Council dismisses the Appeal filed on behalf of Anthony Sposato since the transcript was not filed within 30 days as required by Section 99-9 of the Sussex County Code. The Motion died for the lack of a Second.**

**M 884 08**      **A Motion was made by Mr. Dukes, seconded by Mr. Rogers, that the**  
**Allow**      **Council allow the Appeal transcript on Subdivision No. 2006-73 to be**  
**Appeal**      **accepted as having been timely filed, due to the difficulty encountered by**  
**Transcript/**      **the Applicant in obtaining the Court Reporter's transcript by the required**  
**Subdivision**      **filing date.**

**No. 2006-73**

**M 884 08**      **Motion Adopted:      5 Yeas.**

**(continued)**

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

**Appeal/**  
**Subdivision**  
**No. 2006-73**  
**(continued)**

**The Council considered the Appeal. Mr. Lank, Director of Planning and Zoning, read the reports of the Planning and Zoning Commission, dated July 10, 2008 and August 20, 2008. On August 20th, the Commission granted preliminary approval of the Subdivision, contingent on nine (9) findings of facts and fifteen (15) conditions, one of which is the subject of this Appeal as described previously.**

**It was noted that, although 400 lots were initially proposed, the Applicant voluntarily proposed 393 units during the Public Hearing process.**

**It was noted that the County does not have an ordinance authorizing the deletion of wetlands from density calculation formulas.**

**M 885 08**  
**Reverse**  
**Decision of**  
**Commission**  
**on Sub-**  
**division**  
**No. 2006-73**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to reverse the Planning and Zoning Commission's decision to limit Subdivision No. 2006-73 (Whispering Meadows) to 324 lots and to change the number of allowable lots to 393, based on the Council's findings that the Commission made an error in the interpretation of the Subdivision Ordinance.**

**Motion Adopted:      4 Yeas, 1 Nay.**

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

**Proposed**  
**Resolution/**  
**Deposit**  
**Account**

**Mrs. Webb advised that one matter of business remained regarding the authorization of deposit accounts for Employee Pension Plan and Post Employment Benefit Plan funds and she presented a Proposed Resolution authorizing the opening of a Cash Management Account.**

**M 886 08**  
**Adopt**  
**Resolution**  
**No.**  
**R 027 08**

**A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Resolution No. R 027 08 entitled "CASH MANAGEMENT ACCOUNT RESOLUTION".**

**Motion Adopted:      5 Yeas.**

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

**Additional Business (continued)** Under Additional Business, Dan Kramer stated that his Councilman, Mr. Jones, has always had an open door policy and he advised that Councilman-Elect Sam Wilson has promised to maintain that policy.

**M 887 08 Amend Agenda** A Motion was made by Mr. Cole, seconded by Mr. Phillips, to move “Old Business” forward on the Agenda so that it would be considered as the next matter of business.

**Motion Adopted:** 5 Yeas.

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

**Recess** At 3:30 p.m., Mr. Jones declared a brief recess.

**Reconvene** Mr. Jones called the Council back into session at 3:37 p.m.

**Old Business/** The Council discussed matters of Old Business.

**C/Z No. 1651** The Council considered Change of Zone No. 1651 filed on behalf of Caldera Properties – Indian River V, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on April 24, 2008 at which time they tabled the Public Hearing until July 10, 2008. On July 10, 2008, the Commission reopened the Public Hearing and on that date, deferred action. On August 20, 2008, the Commission recommended that the application be approved with sixteen (16) conditions.

The County Council held a Public Hearing on this application on May 13, 2008 at which time action was deferred and the Public Hearing was continued until September 9, 2008. On September 9, 2008, the Council discussed the Proposed Ordinance under Old Business; on that date, action was deferred, the Public Hearing was closed, and the record was left open for thirty days.

**M 888 08 Amend Proposed Conditions/ C/Z No. 1651** A Motion was made by Mr. Dukes, seconded by Mr. Cole, to amend Condition Nos. 3 and 8 recommended by the Planning and Zoning Commission and to add a new Condition No. 17, as follows:

3. Recreational facilities and amenities shall be constructed and open to use by the residents of the development within two (2)

years of the issuance of the first building permit. These amenities shall include a swimming pool and community club house. The developer shall guarantee completion of the amenities by providing a Performance Bond or Irrevocable Letter of Credit.

M 888 08  
Amend  
Proposed  
Conditions/  
C/Z  
No. 1651  
(continued)

8. The interior street design shall include sidewalks on one side of the street and street lights, and shall be in accordance with or exceed Sussex County street design requirements and specifications.
17. All streets, roads, common areas, recreational amenities and stormwater management facilities shall be maintained by the Homeowners Association.

Motion Adopted: 5 Yeas.

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

M 889 08  
Adopt  
Ordinance  
No. 2017  
(C/Z  
No. 1651)

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 2017 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 78.228 ACRES, MORE OR LESS” (Change of Zone No. 1651) filed on behalf of Caldera Properties – Indian River V, LLC, with the following conditions:

1. The maximum number of dwelling units shall not exceed seventy-one (71). These units shall be single family detached condominium homes.
2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.
3. Recreational facilities and amenities shall be constructed and open to use by the residents of the development within two (2) years of the issuance of the first building permit. These amenities shall include a swimming pool and community club house. The developer shall guarantee completion of the amenities by providing a Performance Bond or Irrevocable

**M 889 08  
Adopt  
Ordinance  
No. 2017  
(C/Z  
No. 1651)  
(continued)**

**Letter of Credit.**

- 4. The development shall be served as part of the Sussex County Sanitary Sewer System in accordance with the Sussex County Engineering Department specifications and regulations.**
- 5. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- 6. Storm water management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements, and will utilize Best Management Practices.**
- 7. Site plan review for the development shall be subject to the review and approval of the Planning and Zoning Commission.**
- 8. The interior street design shall include sidewalks on one side of the street and street lights, and shall be in accordance with or exceed Sussex County street design requirements and specifications.**
- 9. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed landscape design.**
- 10. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday.**
- 11. No individual or community boat docks, piers, boat launching facilities, or pedestrian boardwalks over State wetlands shall be permitted.**
- 12. Road naming and addressing shall be approved by the Sussex County Addressing Department.**
- 13. A fifty (50) foot buffer shall be provided from the State wetland line. Silt fencing shall be placed during construction at the 50-foot buffer setback.**
- 14. The existing cemetery shall be preserved in accordance with applicable regulations and maintained by the Riverview Homeowners Association.**
- 15. Access to the site shall be as approved by all applicable**

regulatory agencies and shall be by way of an upland access easement over the property adjacent to the site as shown on the preliminary site plan presented at the July 10, 2008 Planning and Zoning Commission's Public Hearing.

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

16. The Hunting Activities Nearby notice shall be included in the deed restrictions notices.
17. All streets, roads, common areas, recreational amenities and stormwater management facilities shall be maintained by the Homeowners Association.

**Motion Adopted: 5 Yeas.**

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

**C/Z  
No. 1657**

The Council considered Change of Zone No. 1657 filed on behalf of Ribera – Odyssey, LLC, an application requesting the modification of Condition No. 10 imposed on Ordinance No. 1573 (Change of Zone No. 1475) for “The Peninsula”, a MR-RPC Medium Density Residential District – Residential Planned Community, to extend the time to construct and open for use the Golf Clubhouse and Nature Center Facilities.

Mr. Lank, Director of Planning and Zoning, read Condition No. 10: “Recreational facilities, e.g. tennis courts, swimming pool, community buildings, pathways, trails, and beaches shall be constructed and open to use by the residents within two (2) years of the issuance of the first building permit”.

The Planning and Zoning Commission held a Public Hearing on this application on July 10, 2008 at which time they deferred action. On August 20, 2008, the Commission recommended the denial of the specific relief requested in Change of Zone No. 1657. Further, the Commission recommended that the County Council consider approving a modified ordinance as follows based upon the record and for the following reasons:

“1. While I understand the nature of today’s economy, the Developer should have taken into account as part of the construction of *The Peninsula* development. And, the conditions imposed as part of the original approval were presented by the Applicant, not created by the Planning and Zoning Commission or County Council.

2. At the same time, the Developer has constructed extensive amenities that are already completed and in place. Also, several of the services that would be provided through the Golf Clubhouse exist in other existing facilities, including the Golf Pro Shop, restaurant, etc. Because many of the services are already provided through separate facilities, the residents

would not incur an undo loss of the services due to a limited delay in the clubhouse completion.

C/Z  
No. 1657  
(continued)

3. Although the Applicant has proposed that the clubhouse be constructed after a certain number of memberships have been established within the golf club, this method is too cumbersome and cannot be tracked easily by the County. Instead, specific timeframes must be established for completion that can be tracked by the County, the Developer, homeowners and members of the golf club.

4. Unlike the clubhouse, the Nature Center is an amenity that serves the entire parcel. The Applicant did not give an adequate explanation why this particular amenity has not been constructed. Also, the Applicant did not give adequate reasons why it should not be constructed before the clubhouse. The Nature Center should be constructed without further delay.

5. Construction of the Nature Center should be completed within 18 months of the adoption of this ordinance by County Council.

6. The Golf Clubhouse construction must commence within 2 years of the adoption of this Ordinance by County Council. Construction must be substantially complete within 3.5 years of the adoption of this Ordinance by County Council. A Performance Bond should be required guaranteeing completion of the clubhouse within this timeframe.

The County Council held a Public Hearing on July 29, 2008 at which time action was deferred.

M 890 08  
Amend  
Proposed  
Condition  
(C/Z  
No. 1657)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to amend Condition No. 10 imposed on Ordinance No. 1573 by adding the following: Construction of the Nature Center shall be completed within 18 months of the adoption of this Ordinance by County Council. A Performance Bond or Irrevocable Letter of Credit shall be required guaranteeing completion of the Nature Center within this time frame. The Golf Clubhouse construction must commence within 2 years of the adoption of this Ordinance by County Council. Construction must be substantially complete within 3 1/2 years of the adoption of this Ordinance by County Council. A Performance Bond or Irrevocable Letter of Credit shall be required guaranteeing completion of the Clubhouse within this time frame. The Applicant shall submit a Final Site Plan and the required bonding within 120 days of this Ordinance for both the Nature Center and Clubhouse.

Motion Adopted: 5 Yeas.

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



**M 891 08**            **A Motion was made by Mr. Dukes to Adopt the Proposed Ordinance**  
**MOTION**            **(Change of Zone No. 1657) with the amended Condition No. 10. The**  
**DIED**                **Motion died for the lack of a Second.**

**M 892 08**            **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to rescind the**  
**Rescind**            **Motion (M 890 08) that amended Condition No. 10 (Ordinance No. 1573).**

**M 890 08**  
**M 892 08**            **Motion Adopted:        5 Yeas.**  
**(continued)**

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

**M 893 08**            **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to amend**  
**Amend**            **Condition No. 10 (Ordinance No. 1573) which states that “Recreational**  
**Proposed**           **facilities, e.g. tennis courts, swimming pool, community buildings,**  
**Condition/**           **pathways, trails, and beaches shall be constructed and open for use by the**  
**C/Z**                **residents within two (2) years of the issuance of the first building permit” by**  
**No. 1657**           **adding the following: “Construction of the Nature Center and Clubhouse**  
**shall be commenced within 2 years of the adoption of this Ordinance by**  
**County Council. Construction must be substantially complete within 3 1/2**  
**years of the adoption of this Ordinance by the County Council. A**  
**Performance Bond or Irrevocable Letter of Credit shall be required**  
**guaranteeing completion of the Nature Center and the Clubhouse within**  
**this time frame. The Applicant shall submit a Final Site Plan and the**  
**required bonding within 120 days of the adoption of this Ordinance for**  
**both the Nature Center and the Clubhouse.”**

**Motion Adopted:        5 Yeas.**

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

**M 894 08**            **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt**  
**Adopt**            **Ordinance No. 2018 entitled “AN ORDINANCE TO MODIFY**  
**Ordinance**           **CONDITION NO. 10 IMPOSED ON ORDINANCE NO. 1573 FOR**  
**No. 2018**           **CHANGE OF ZONE NO. 1475, THE APPLICATION OF RIBERA-**  
**(C/Z**                **ODYSSEY, LLC FOR “THE PENINSULA”, A MR-RPC MEDIUM**  
**No. 1657)**           **DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED**  
**COMMUNITY, TO EXTEND THE TIME TO CONSTRUCT AND OPEN**  
**FOR USE THE GOLF CLUBHOUSE AND NATURE CENTER**  
**FACILITIES (Change of Zone No. 1657), with the amended Condition No.**  
**10, as follows:**

**Recreational facilities, e.g. tennis courts, swimming pool, community**  
**buildings, pathways, trails, and beaches shall be constructed and open for**  
**use by the residents within two (2) years of the issuance of the first building**

- permit. Construction of the Nature Center and Clubhouse shall be commenced within 2 years of the adoption of this Ordinance by County Council. Construction must be substantially complete within 3 1/2 years of the adoption of this Ordinance by the County Council. A Performance Bond or Irrevocable Letter of Credit shall be required guaranteeing completion of the Nature Center and the Clubhouse within this time frame. The Applicant shall submit a Final Site Plan and the required bonding within 120 days of the adoption of this Ordinance for both the Nature Center and the Clubhouse.
- M 894 08**  
**Adopt**  
**Ordinance**  
**No. 2018**  
**(C/Z**  
**No. 1657)**  
**(continued)**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;**  
**Mr. Dukes, Yea; Mr. Rogers, Yea;**  
**Mr. Jones, Yea**
- M 895 08**  
**Amend**  
**Agenda**
- A Motion was made by Mr. Cole, seconded by Mr. Rogers, to amend the Agenda by deferring action on the Proposed Ordinance relating to Open Space until December 16, 2008.
- Motion Adopted: 4 Yeas, 1 Nay.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;**  
**Mr. Dukes, Yea; Mr. Rogers, Yea;**  
**Mr. Jones, Nay**
- M 896 08**  
**Recess**
- At 4:31 p.m., a Motion was made by Mr. Cole, seconded by Mr. Dukes, to recess the Regular Session until 6:00 p.m.
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;**  
**Mr. Dukes, Yea; Mr. Rogers, Yea;**  
**Mr. Jones, Yea**
- Reconvene**
- Mr. Jones called the Council back into session at 6:20 p.m.
- M 897 08**  
**Amend**  
**Agenda**
- A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend the order of the Agenda by moving *Election Contest Winners* before *Landsharks Special Olympics Bocce Team*.
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;**  
**Mr. Dukes, Yea; Mr. Rogers, Yea;**  
**Mr. Jones, Yea**
- Election**
- Eddie Sparpaglione, Director of Information Systems, announced and

<b>Contest Winners</b>	<b>introduced the winners of the 2008 Year Scholarship Contest:</b>  Winner – Audrey White, Sussex Technical High School First Runner-Up – Kaitlin Binsted, Indian River High School Second Runner-Up – Joshua Betts, Shields Elementary School Third Runner-Up – Connor Hitchens, North Georgetown Elementary School Fourth Runner-Up – Hannah Picconi, Greenwood Mennonite School Fifth Runner-Up – Caitlyn Hitchens, Sussex Academy of Arts & Sciences
<b>(continued)</b>	<b>The Council presented certificates to the winners. The winners will receive their scholarships upon entering college.</b>
<b>Landsharks Team</b>	<b>The Council recognized members of the Landsharks Special Olympics Team who participate in the bocce program.</b>
<b>Public Hearing/ Proposed Ordinance Relating to Private Community Wastewater Systems</b>	<p><b>At 6:28 p.m., a Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 110 OF THE CODE OF SUSSEX COUNTY BY ADDING A NEW PART 7 RELATING TO AN APPROVAL PROCESS FOR PRIVATE COMMUNITY WASTEWATER SYSTEMS IN SUSSEX COUNTY PRIMARY SERVICE AREAS AND SECONDARY SERVICE AREAS”.</b></p> <p><b>Mr. Baker advised that this ordinance would establish a County approval process for private wastewater systems in primary or secondary County-service areas. If the ordinance is adopted, private community wastewater systems would not be permitted to be constructed within a primary or secondary service area without the prior approval of Sussex County. There would be an appeal process in accordance with the ordinance. This ordinance would not apply to any system for which a CPCN has been issued previously by the Public Service Commission.</b></p> <p><b>Michael Izzo, County Engineer, reviewed the County’s wastewater service area map and he indicated the major areas where this ordinance would apply.</b></p> <p><b>There were no public comments and the Public Hearing was closed.</b></p>
<b>M 898 08 Defer Action on Proposed Ordinance Relating to Community Wastewater Systems</b>	<p><b>A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to defer action on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 110 OF THE CODE OF SUSSEX COUNTY BY ADDING A NEW PART 7 RELATING TO AN APPROVAL PROCESS FOR PRIVATE COMMUNITY WASTEWATER SYSTEMS IN SUSSEX COUNTY PRIMARY SERVICE AREAS AND SECONDARY SERVICE AREAS”.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</b></p>

**Public  
Hearing/  
MPHU  
Rental  
Program**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 72 OF THE CODE OF SUSSEX COUNTY RELATING TO MODERATELY PRICED HOUSING UNITS TO ESTABLISH AN AFFORDABLE PRICED RENTAL UNIT PROGRAM”.**

**Public  
Hearing/  
Proposed  
Ordinance  
on MPHU  
Rental  
Program  
(continued)**

**William Lecates, Director of Community Development and Housing, explained that this ordinance would serve as a means to stimulate the production of rental housing for County residents with low and moderate incomes and will help to alleviate a shortage of rental housing for citizens of low to moderate income by creating incentives for the developers of such housing.**

**Mr. Lecates reviewed the Proposed Ordinance. He stated that in accordance with the ordinance, an applicant submitting a housing development plan to the County for approval would have to provide for a percentage of *Sussex County Rental Program Units (SCRIP units)* and in return, they would receive bonus density and expedited review. Applicants with proposals of 25 to 64 total units would have to contribute 40 percent of all units to SCRIP inventory; applicants with 65 or more units would have to contribute 15 percent of all units to SCRIP inventory with a minimum of 26 SCRIP units.**

**Brandy Bennett, Community Development and Housing Department, presented and reviewed suggested changes to the Proposed Ordinance, including wording changes, clarifications, and typing errors.**

**Mr. Griffin stated that the changes are not substantial nor are they more restrictive than the Proposed Ordinance, as introduced; therefore, the Proposed Ordinance could be adopted with the suggested changes.**

**Public comments were heard.**

**Sandy Spence spoke on behalf of the Sussex Housing Group and the Delaware Housing Coalition in support of the Proposed Ordinance. She stated that the need for affordable housing in Sussex County is great and it is growing; that there are 1,854 renters in Sussex County who are considered to be “cost-burdened” and these households are paying more than 30 percent of their income for housing costs, including utilities; and that over a third of the stock of assisted rental housing units may be lost to market conversions by 2012 unless plans and resources are put into place to address this need; that it is their hope that this ordinance will give private developers an incentive to build affordable rental housing for lower income residents of the County; and that the need for affordable rental housing is a long term issue. Ms. Spence stated that their only concerns with the Proposed Ordinance are the restrictions to households with a minimum of 30 percent of area medium income; that it may be appropriate to require**

**Public  
Hearing/  
Proposed  
Ordinance  
on MPHU  
Rental  
Program  
(continued)**

more than 15 percent of units to be included in the program where the development consists of 65 or more units; that it may be desirable to enable projects with less than 25 units to participate; that they would prefer that the proposed rental units be permitted only in Town Centers or Developing Areas and not in Environmentally Sensitive/Developing Areas; and that these concerns could be addressed in the future, once the County has gained some experience with implementation. Ms. Spence supported the suggested changes to the Proposed Ordinance outlined by Brandy Bennett.

Marlena Gibson spoke in support of the Proposed Ordinance on behalf of the Delaware State Housing Authority. She stated there are very strong rental needs in the County; that rental housing is a vital part of a balanced housing stock for the County's workforce; that Sussex County has been a leader in the State with the MPHU Program; and that this Rental Program will be groundbreaking in the State. Ms. Gibson noted that the DSHA submitted to the County a letter of support signed by Sandra R. Johnson, Director. Mr. Griffin read the letter into the record.

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

**M 899 08**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the Proposed Ordinance relating to Moderately Priced Housing Units.

**Withdrawn**

Mr. Dukes withdrew his Motion and Mr. Phillips withdrew his Second.

**M 900 08  
Adopt  
Suggested  
Changes  
to Proposed  
MPHU  
Ordinance  
Presented  
by  
Community  
Develop-  
ment &  
Housing  
Department**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt the suggested changes of the Sussex County Community Development and Housing Department to the Proposed Ordinance relating to Moderately Priced Housing Units to correct typographical errors and to make minor wording changes, as presented and as follows:

**§72-19 A (Wording Change)**

Based on wording later in the Ordinance, it is suggested that the line reading "hereinafter, a Development Plan" be changed to read "hereinafter, a Site Plan".

**§72-19 F (Typing Error)**

The sentence should read, "The date of the initial lease agreement signing of an approved Eligible Tenant for a SCRP unit."

**§72-19 O (Wording Change)**

The definition of Foreclosure Event should be specific for not only individual rental units, but also the property/complex in its entirety.

**§72-20 B (Typing Error)**

This should read, “be able to pay the first month’s rent and any required security deposit”, instead of “first year’s rent”.

**§72-22 D (Clarification)**

**M 900 08**  
**(continued)**      Regarding the washer and dryer requirement, this should apply only in the case that the market-rate units have them. If the market-rate units are lacking washers and dryers, SCRP units do not have to have them either.

**§72-23 M/N (Typing Error)**

The first sentence of 72-23 N should be inserted as the last sentence of 72-23 M.

**Motion Adopted:**      5 Yeas.

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

**M 901 08**  
**Adopt**  
**Ordinance**  
**No. 2016/**  
**MPHU**  
**Rental**  
**Program**      A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt Ordinance No. 2016 entitled “AN ORDINANCE TO AMEND CHAPTER 72 OF THE CODE OF SUSSEX COUNTY RELATING TO MODERATELY PRICED HOUSING UNITS TO ESTABLISH AN AFFORDABLEY PRICED RENTAL UNIT PROGRAM”, as amended.

**Motion Adopted:**      5 Yeas.

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

**M 902 08**  
**Amend**  
**Agenda**      A Motion was made by Mr. Dukes, seconded by Mr. Cole, to amend the Agenda to include Proposed Ordinance Relating to Open Space – For Discussion Purposes Only.

**Motion Adopted:**      5 Yeas.

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

**Proposed**  
**Ordinance**  
**Relating**  
**to Open**      The Council discussed the Proposed Ordinance relating to Open Space.  
  
The County Council held a Public Hearing on the Proposed Ordinance on December 2, 2008, at which time the Council deferred action and directed

**Space**                      staff and the County Attorney to look at the cumulative changes heard during the Public Hearing and to determine what changes could be incorporated without making a major change to the Proposed Ordinance since major changes would require a new Public Hearing.

**(continued)**              Mr. Griffin reviewed the list of changes that can be made to the Proposed Ordinance. He also reviewed the list of changes that cannot be made to the Proposed Ordinance without holding an additional Public Hearing.

**The Proposed Ordinance will be placed on the December 16, 2008 Agenda.**

**Attorney/**                      Mr. Griffin left the meeting.

**Assistant**

**Attorney**                      Mr. Berl, Assistant County Attorney, joined the meeting.

**Public**                      A Public Hearing was held on the Proposed Ordinance entitled “AN  
**Hearing/**                      ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN  
**C/U**                              AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL  
**No. 1792**                      WASTEWATER COLLECTION, TREATMENT AND DISPOSAL  
FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND  
LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX  
COUNTY, CONTAINING 320.21 ACRES, MORE OR LESS” (Conditional  
Use No. 1792) filed on behalf of Tidewater Environmental Services, Inc.

Mr. Berl, Assistant County Attorney, explained that this is the second Public Hearing on this application. The primary purpose of this Public Hearing is to make it possible for the Council to consider the additional correspondence and comments that were submitted after the record was closed on the first Public Hearing. By reopening the Public Hearing, the Applicant will be allowed to submit information regarding any revisions to the application or the design of the proposed facility. It will also allow the public to comment on any revisions to the application.

On November 18, 2008, the Council determined that it would reopen the public record on Conditional Use No. 1792 and passed a Motion to reopen the case to “... admit all of the correspondence and documents that were submitted after the record was closed” and further, to hold one additional Public Hearing on December 9, 2008.

The Planning and Zoning Commission held a Public Hearing on this application on June 26, 2008 at which time the Commission deferred action; on August 28, 2008, the Commission recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 26, 2008 and August 28, 2008.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the

**Commission's Public Hearing.**

**Public  
Hearing/  
C/U  
No. 1792**

Copies of correspondence regarding the application were distributed: Bonnie M. Benson, P.A. (received November 18, and December 9, 2008, Lewes Fire Department (dated October 14, 2008), Rehoboth Beach Volunteer Fire Company (received October 27, 2008), Midway Baptist Church (received December 9, 2008), Kim D. Furtado, N.D. (dated October 20, 2008), and Brea Millman (dated December 5, 2008).

Dennis Schrader, Attorney, was present with Bruce Patrick, P.E., Vice President of Tidewater Environmental Services, Inc., Frank Kea of Frank Kea Communities, LLC, Lee J. Beetschen, P.E. and Steven Lewandowski, P.E. of CABE Associates, Inc., Thomas E. Dyer, P.G. of Eastern Geosciences, Inc., and Lisa Woods of Terra Firma Consulting.

Mr. Schrader reported that during the first Public Hearing, there were a number of comments made by area residents that they did not receive adequate notice of the Public Hearings. As a result, Tidewater determined that it was in the best interest of the process to meet with some of the residents; they met with the two fire companies and residents of The Willows development to address any concerns they might have. There was also an opportunity for people to visit a wastewater treatment plant operated by Tidewater.

Mr. Schrader commented that, in regards to the first Public Hearings held on this application, as may be found in the Application File and as confirmed by David Baker in the Council's November 18, 2008 minutes, more than 65 notices were sent to adjacent property owners, which is in addition to the publication requirements of the County's Zoning Code and of State Law. Also, notwithstanding the expressed concern about public participation, a number of residents and property owners in the area of the proposed project participated in the earlier hearings and letters of no objection were received by the County from Bonnie Benson, Attorney for thirty owners within the Willows subdivision, Dr. Furtado, the Lewes Fire Department, and the Rehoboth Beach Volunteer Fire Company.

Mr. Schrader reported that, as a result of the meetings and input received, letters of no objection to the application were received. The letters were based on the fact that the regional wastewater facility would be moved from the location that was previously adjacent to the combined Lewes – Rehoboth Beach Volunteer Fire Company to an area on the southeast side of Route 24. Letters of no opposition were received from Bonnie Benson, Attorney for residents in The Willows subdivision; Kim Furtado, N.D.; the Lewes Fire Department, and the Rehoboth Beach Volunteer Fire Company contingent on "Irrigation Lagoon A, the lagoon pumping station, the headwork's building, the control building, the biological treatment tanks, and the emergency generator shall be relocated to the east of Rapid Infiltration Basins Area A on Sussex County Tax Map Parcel No. 2-34-



Public  
Hearing/  
C/U  
No. 1792

**11.00-50.00. The vacated are on Tax Map Parcel No. 2-34-11.00-48.00 may be used as a spray irrigation area.”**

**Mr. Schrader advised that (1) the Exhibit Book was revised for the purpose of showing where the new location is and (2) there is a section in the Exhibit Book which indicates that the removal of the wastewater treatment plant from one area to another location will still result in the project being in compliance with the Comprehensive Land Use Plan. He stated that the proposed findings of fact have also been revised to provide new information relating to the new location. Mr. Schrader asked the Council to allow for the prior site to be used for spray irrigation.**

**Mr. Schrader stated that he is aware that there are persons who wish to be excluded from the service area; however, the service area is controlled by a CPCN issued by the Public Service Commission and therefore, it is not a matter than can be brought before the Council. Mr. Schrader also advised that the persons who plan to bring this information before the Council are involved in litigation.**

**Bruce Patrick discussed the change in the location of the facility. He stated that the original location of the facility was on the north side of Route 24 adjacent to the firehouse and the storage lagoon was in the agricultural area; that these have been moved and the areas will remain agriculture and woods and may be used for spray irrigation in the future; that the plant has been relocated to the south side of Route 24 within a wooded area and the clean water storage pond has been relocated east of the rapid infiltration basins; that the storage ponds will be the same volume as previously presented; that the soils are good for this purpose; that there are no technical problems with the move; that the same facility is proposed as before and will treat to a high standard; and that the only change is the location.**

**Lee Beetschen discussed the suitability of the site for disposal and treatment. He stated that the existing standard of treatment per DNREC is 5 mg per liter and that this plant will treat to 3 mg per liter, to the drinking water standard.**

**Mr. Schrader concluded by stating that the application was modified in order to respond to the concerns of the people who reside in the area and the Volunteer Fire Companies. He stated that there is no scientific difference in the location that was previously proposed and the new proposed location. He stated that the new proposal takes 320 acres and makes it available for approximately 3,700 EDUs with about 400 in reserve that will be available to areas that are already certificated.**

**Mr. Schrader distributed letters of no objection, including from the two fire companies and The Willows, and he submitted a copy of the Applicant's revised Exhibit Book.**

Public  
Hearing  
(C/U  
No. 1792)

**Public comments were heard.**

**Dan Kramer of Greenwood questioned who paid for the new Public Hearing and he questioned why, when the first Public Hearing was closed, was there more public comments taken. He also stated that no one should be in opposition to the proposal.**

**Bonnie Benson, Attorney, stated that she was retained by thirty homeowners that live in The Willows subdivision and others living along Robinsonville Road. She advised that their concerns related to Application/Public Hearing Notice, environmental impact, air quality, noise and traffic. She stated that many of the residents had an ongoing dialog with the Applicant and others met in a public forum, and that it is the consensus of the residents that she represents that the proposed Conditional Use, as amended (revised site plan and relocation of the lagoon and the facility to the opposite side of Route 24) is acceptable.**

**Ms. Benson referred to the two letters that she has submitted to the County Council in regards to this application, dated November 17 and December 8, 2008.**

**Kevin Burdette of Milton spoke in support of the application. He stated that the proposed project does a lot of things for long range planning; it makes environmental advancements; it offers the potential to eliminate septic tanks; it will provide a positive freshwater recharge that will protect the Inland Bays; that it will provide potable fresh water into Love Creek; that water leaving the site will be closely monitored; that 320 acres along Route 24 will be maintained as agricultural; that there will be less odor from this use than normal agricultural activities; that the relocation addresses local concerns and improves the character of the neighborhood; that the application does not affect any Sussex County sewer districts; and that regional wastewater plants work more effectively than individual developments' wastewater systems.**

**Robert John spoke on behalf of Midway Baptist Church. He stated that a letter was faxed on this date from the Church and it addresses questions and concerns they had on December 8th. He noted, however, that their questions and concerns have now been answered; that they are in support of the application; and they withdraw their opposition.**

**Russell Marsh stated that the application is being proposed on land that the Marsh family owns; that the treated water from the facility will be recycled as spray irrigation on feed stock crops; that their family has been farming this land for seven generations; that they are confident the reclaimed water will be safe for crops and groundwater; and that the property will remain in farming and will not be developed.**

**Ed Justice of Laurel stated that the Marsh family has stepped up and**

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offered their site for an example of the future of wastewater in the State; that there are already 24 spray irrigation facilities in Delaware; that there are 3,069 acres currently permitted for spray irrigation; that the proposal is an excellent project that will reclaim waters for the State; that water is a valuable asset and it needs to be reclaimed and reused; and that he serves on a Task Force formed by House Concurrent Resolution No. 67 which charges the Task Force to submit legislation that will help preserve the groundwater of the State of Delaware by allowing the use of farmland for treated wastewater affluent.

Betty Lee Carmine, a resident of Camp Arrowhead Road and a neighbor of the Marsh's, spoke in support of the application since it is needed due to growth in the area.

Gregory Inskip of Potter, Anderson & Corroon LLP spoke on behalf of The Ridings Development LLC. He stated that Tidewater Environmental Services holds a CPCN, issued by the Public Service Commission, to serve the development; that Ridings relied on the representations in the subdivision plan and in close consultation with Tidewater, financed and built the on-site plant at a cost of several million dollars, in the expectation that Tidewater would operate the plant and that the cost would be spread pro rata over all 225 lots in the development; that, ultimately, Ridings only purchased the first 75 lots of the development and did not purchase the remaining 150; that the seller still has 150 lots to sell; that in fairness, each of those lots should tap into, and pay their fair share for, the community system that would serve all 225 lots in the development; that now, Tidewater seems to include The Ridings at Rehoboth in the area to be served by Tidewater's proposed new regional facility at Wanendale; that Ridings is concerned that they may seek to bypass the on-site plant built by Ridings by connecting the remaining lots in the development to the Wanendale Facility; that Tidewater has refused to give Ridings assurance that it will use the on-site plant, as was always contemplated; that any conditional use approval for the Wanendale service area should exclude all 225 lots at The Ridings at Rehoboth as a condition of approval; and that the County has an interest in insuring that the conditions of subdivision approvals be kept. Mr. Inskip submitted a letter into the record, dated December 9, 2008.

Mr. Berl, Assistant County Attorney, stated that the Council is supposed to address land use issues and that Mr. Inskip's issues go beyond land use.

Maria Evans of Lewes stated that she was initially opposed to the application because of the negative affect such a facility would have on property values; that while she is happy that the facility has been relocated, she still has concerns about odors, health hazards, and water quality; that pharmaceuticals in treated wastewater are not filtered out in the filtration process and that no one requires this filtration; and that the system being proposed for the Angola area was never meant to be used near wetlands, by

bodies of water, or at sea level.

John Townsley of Lewes stated that, in August, a referendum was held defining the Angola Neck Sanitary Sewer District, most of which covers the area of this application; that he questions if this is replacing the County's sewer system; and that he is concerned about health and safety issues relating to spray irrigation systems.

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Thomas Head, Jr. of Lewes questioned the location of the treatment facility and the lagoon to clarify that it can no longer straddle Route 24.

No. 1792  
(continued)

Mr. Cole stated that the County Council is not the regulatory body to address the health/safety concerns and that DNREC is the regulatory agency who will issue permits, if determined feasible.

In response to questions raised by the Council, Bruce Patrick stated that Tidewater still has to obtain permits from DNREC and that DNREC can hold a public hearing if they deem that it is warranted.

Angela Millman of Lewes questioned where the spray irrigation will take place and if there will be a 50 foot buffer. She expressed health and safety concerns because the spray water is not safe for humans to be around.

Frank Kea responded to Ms. Millman's question: spray will take place in the trees and farm fields; that there is a 250 foot wide strip along the road reserved by the farmer for his use; and that the spray will be (highly) treated to public access standards.

The Public Hearing was closed.

Mr. Lank, read the Findings and Proposed Conditions of the Planning and Zoning Commission (August 28, 2008 Meeting), based on the original application. Mr. Lank also read the revised conditions proposed by the Applicant.

M 903 08  
Adopt  
Ordinance  
No. 2019  
(C/U  
No. 1792)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 2019 entitled AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL WASTEWATER COLLECTION, TREATMENT AND DISPOSAL FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 320.21 ACRES, MORE OR LESS" (Conditional Use No. 1792) filed on behalf of Tidewater Environmental Services, 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 Sussex County Engineering Department, if any, or the Delaware Department of Natural Resources and

**M 903 08  
Adopt  
Ordinance  
No. 2019  
(C/U  
No. 1792)  
(continued)**

**Environmental Control, and any other governmental agency with jurisdiction over the use of the site, or any modification thereto.**

- 2. The applicant shall submit to the Sussex County Engineering Department a regional plan that shows all the areas and/or subdivisions to be served by the wastewater treatment and disposal facility. Said plan shall include technical support that demonstrates that capacity exists at the treatment and disposal facility to serve the areas and/or subdivisions.**
- 3. The facility shall not receive sanitary waste for treatment and disposal from any property or parcel that is located within a Sussex County sewer planning area or sewer district; excepting therefrom those properties or parcels which are currently being served by other Tidewater Environmental Services, Inc. treatment and disposal facilities or approved for service as evidenced by a CPCN being issued by the Public Service Commission on or before the adoption of this conditional use ordinance.**
- 4. The final site plan shall be subject to review and approval by the Sussex County Planning and Zoning Commission.**
- 5. Irrigation Lagoon "A", the lagoon pumping station, the headwork's building, the control building, the biological treatment tanks, and the emergency generator shall be relocated to the east of Rapid Infiltration Basins Area A on Sussex County Tax Map Parcel No. 2-34-11.00-50.00. The vacated area on Tax Map Parcel No. 2-34-11.00-48.00 may be used as a spray area.**
- 6. The buildings shall appear to be agricultural buildings. With the exception of emergency generators, holding and treatment tanks that may be located on the site, all other equipment needed in the operation of the facility shall be located indoors. The generators shall be housed in enclosures to reduce noise.**
- 7. Any security lighting shall be screened so that it does not shine onto neighboring properties or public roads.**
- 8. A minimum 50' un-forested buffer will be maintained around all spray irrigation areas.**
- 9. A minimum 50' forested buffer will be maintained around the Midway Baptist Church.**
- 10. This regional facility shall make its services available for any failing septic system in its proposed service areas.**
- 11. Any lagoons, rapid infiltration basins, spray irrigation systems or**

similar structures shall be located at least 50 feet from any dwelling.

12. One lighted sign shall be permitted on the site containing the treatment buildings, not to exceed 32 square feet in size. Unlighted signs, not to exceed 32 square feet in size shall be permitted on other parcels that are part of this application.

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Adopt  
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No. 1792)  
(continued)**

13. Perimeter fencing around the control building, head works building, lagoon pumping station, treatment and holding tanks, irrigation lagoons "A" and "B", and rapid infiltration bed areas "A" and "B", will be visibly screened from neighboring properties and roads through the use of native species trees.
14. The final site plan shall include a landscaping plan to include all proposed buffers.

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing/  
Proposed  
Ordinance  
Relating to  
Superior  
Design**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE IV, SECTION 115-25 TO PROVIDE CRITERIA FOR DETERMINING WHETHER A PRELIMINARY CLUSTER SUBDIVISION PLAN PROVIDES FOR A TOTAL ENVIRONMENT AND DESIGN WHICH ARE SUPERIOR TO THAT WHICH WOULD BE ALLOWED UNDER THE REGULATIONS FOR THE STANDARD SUBDIVISION OPTION”.**

**The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on November 20, 2008 at which time the Commission recommended approval, subject to the following recommendations:**

1. That the Sussex County Council consider the information provided to the Commission during the Public Hearing.
2. That the word “setback” in 115-25F(3)(a)(4) on Page 3 of the Proposed Ordinance Amendment be changed to the word “buffer”.
3. That on Line 9 of 115-25F(3)(a)(4) on Page 3 the word “Council” should be changed to the word “Commission”.
4. In 115-25F(3)(a)(2) regarding “Yield Plans” should state that the Yield Plan must be designed based on the same sewer infrastructure as the proposed Cluster Subdivision so that lot sizes are comparable. To accomplish this, (2)(A) should state “The Yield Plan shall be completed to scale based upon the same sewer infrastructure as the proposed Cluster Subdivision and shall show potential lots, streets and stormwater management facilities.”
5. In 115-25F(3)(a)(3)(B) on Page 2, the final sentence should be

replaced with “Accordingly, at least 40% of all required open space shall be located on one centralized location within the project.”

(See the minutes of the meeting of the Planning and Zoning Commission dated November 20, 2008.)

**Public  
Hearing/  
Proposed  
Ordinance  
Relating to  
Superior  
Design  
(continued)**

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

Mr. Lank reported that letters were previously received from Carol Bason, Center for the Inland Bays; Gary Cuppels of ECI, LLC; and Lee Ann Walling of DNREC.

Mr. Lank distributed copies of a letter received December 9, 2008 from Valerie Cloutier and a fax received on December 9, 2008 from DC Group in reference to the Proposed Ordinance. The letters were made a part of the record.

**Public comments were heard.**

Carol Bason, Center for the Inland Bays (CIB), stated that the CIB supports the Proposed Ordinance since it meets the Sussex County Comprehensive Plan’s comments for Community Design and Superior Design; it helps the CIB accomplish its goals co-signed in the Comprehensive Conservation Management Plan (CCMP) with the State, County and municipalities, including the CIB’s goal to protect future habitat loss and nutrient over-enrichment in the Inland Bays; and it strengthens the current cluster development option in the County’s Zoning Code. She stated that, of concern to the CIB, are the inconsistencies that are apparent within and between different regulations regarding wetlands and other buffer or setback widths and that they feel these inconsistencies must be resolved before they can endorse this section of the Superior Design Ordinance. She stated that the CIB recommends several changes to the Proposed Ordinance that perform the following: further the use of green technology and native, non-invasive vegetation in the superior design solutions; add Homeowners Associations to the entities that must agree to maintain the dedicated open space; and clarify the language regarding critical areas. Ms. Bason presented the CIB’s recommended changes in the form of a marked-up copy of the ordinance which was also presented to the Planning and Zoning Commission. The marked up copy was made a part of the record.

Ms. Bason noted one additional recommendation to those presented to the Commission:

- On Page 3 (4) where the wording uses setback and buffer, the wording should be changed to “buffer”.

**Public  
Hearing/  
Proposed  
Ordinance  
Relating to  
Superior  
Design  
(continued)**

In regards to the CIB's recommendation to use "green technology methods" on Page 3 and Mr. Lank's comment that there is no definition, Ms. Bason suggested using "maximum environmental benefit". Also, in regards to the CIB's suggestion that Page 3, No. 4, that the number 25 should be struck and 30 inserted, Ms. Bason sated that they would agree to leave it at 25. Ms. Bason concluded by stating that the CIB would like to see this ordinance applied to other residential types in the future.

Deborah Schultz of Lewes stated that she supports cluster development, particularly when that development preserves large percentages of open space; that she supports maintaining contiguous open space for the purpose of protecting habitat, wildlife corridors, watersheds, recharge surfaces, etc.; that the Comprehensive Plan says that open spaces should be required to be linked together; that larger spaces required in cluster development can become major building blocks for a County-wide system; that the preliminary plan submission for superior design is a great procedure and this should be the preliminary plan process for all subdivision applications; that she recommends removing the following sentence from the ordinance - "Required Open Space must be designed to benefit the residents of cluster development." Ms. Schultz submitted written comments into the record.

Mr. Phillips stated that there is a yield reduction in this ordinance without consideration.

Sandy Spence referred to Paragraph 3 (A) (8) (A) which states that the Applicant must identify lands to be preserved and that she suggests that in the second sentence, where it says that other features that are important for conservation, "nesting areas and migratory pathways" should be inserted; that at the end of the last sentence, insert "conservation" after "natural" where it says that areas with the fewest important natural scenic and historic features should be considered in the potential development area. Ms. Spence submitted written comments into the record.

Kevin Burdette of McCrone, Inc. presented a marked-up copy of the Proposed Ordinance which was presented previously to the Council. Mr. Burdette reviewed the proposed amendments. The marked-up copy was made a part of the record.

Rich Collins stated that the Council needs to consider the economic impact of the Proposed Ordinance; that the Proposed Ordinance is vague and subjective; and he suggested that the Council create a committee to look at Land Use ordinance issues.

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

Mr. Cole stated that there is no rush to adopt the Proposed Ordinance.



**M 904 08**

**Defer Action  
on Proposed  
Ordinance  
Relating to  
Superior  
Design**

**M 904 08  
(continued)**

**A Motion was made by Mr. Cole, seconded by Mr. Rogers, to close the Public Hearing and to defer action on the Proposed Ordinance relating to Superior Design, and further, to leave the record open and direct the County Attorney to look at the cumulative suggestions heard during the Public Hearing and to determine what changes can be incorporated without making a major change to the Proposed Ordinance.**

**Motion Adopted: 5 Yeas.**

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

**M 905 08  
Adjourn**

**A Motion was made by Mr. Cole, seconded by Mr. Dukes, to adjourn at 10:25 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

**Robin A. Griffith  
Clerk of the Council**