



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 28, 2005

Call to Order

The regular meeting of the Sussex County Council was held Tuesday, June 28, 2005 at 10:00 a.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
Robert L. Stickels	County Administrator
David Baker	Finance Director
James D. Griffin	County Attorney

M 354 05 Amend and Approve Agenda

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend the Agenda, as follows:

Robert L. Stickels, County Administrator

- 1. Funding Request - Delaware District III Little League**
- 2. Book Presentation - Delaware in the Great Depression**
- 3. Moderately Priced Housing Program**
- 4. Wastewater Agreement – Swann Cove, Phase II**
- 5. Administrator's Report**

; and, to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 355 05
Approve
Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of June 21, 2005.

Motion Adopted: 5 Yea.

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

Corre-
spondence

Mr. Griffin read the following correspondence:

SEAFORD DISTRICT LIBRARY, SEAFORD, DELAWARE.

RE: Letter in appreciation of funding for the Teen Collection.

ELVA D. ALLEN, MILLSBORO, DELAWARE.

RE: Letter commending County employee, Ira Hitchens, for his hard work and diligence in getting a property cleaned up on State Street in Millsboro.

Funding
Request/
Delaware
District III
Little
League

Martin Donovan, District Coordinator, Delaware District III Little League, presented a request for additional funding for the 2005 Senior League Softball World Series Tournament scheduled to be held August 7 – August 13, 2005 in Roxana. He acknowledged that the County Council has already allocated \$10,000 for the event. He explained that the request for additional funding is due to the loss of one of their corporate sponsors and due to additional unexpected expenses; funding received would be used for housing, transportation, and food for the players, coaches and umpires.

M 356 05
Youth
Activity
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$5,000.00 (\$1,000.00 from each Councilman's Youth Activity Grant Account) to the Delaware District III Little League for the 2005 Senior League Softball World Series.

Motion Adopted: 5 Yea.

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

Book
Presen-
tation/
Brian
Page

Mr. Stickels announced that County employee Brian Page is the author of a recently released book entitled Delaware in the Great Depression, an *Images of America Book*. Mr. Page was in attendance to discuss his thoughts and considerations in writing the book. He noted that the book outlines Delaware's extraordinary achievements during the period of the Great Depression, which "needed to be said, needed to be documented, and needed to be talked about". Mr. Page announced that the books can be purchased at local and major bookstores and on the internet at www.Amazon.com. Mr. Page also announced that he would be donating one-half of his profit to Sussex County to establish some kind of fund. Councilman Phillips suggested that those funds be used by Mr. Page to write a book about Sussex County.

Mr. Stickels announced that the County has purchased fourteen copies of the book for placement in the libraries and Bookmobile in Sussex County.

**Moderately
Priced
Housing
Program
Moderately
Priced
Housing
Program
(continued)**

The County Council discussed the Moderately Priced Housing Program. This program was initially discussed at the February 1, 2005 County Council meeting at which time Mr. Lecates, Director of Sussex County Community Development and Housing, was directed to schedule and conduct upcoming meetings and workshops of the Housing Committee.

Mr. Lecates thanked the twenty (20) Committee members and the developers for their participation in the meetings.

Mr. Lecates reported that, following the six meetings, it was decided that since the preliminaries and guidelines were spelled out by the 20-member Committee, income guidelines and other issues could be addressed by a sub-committee. Everyone was invited to attend the sub-committee meetings.

Mr. Lecates submitted a draft proposal for affordable home ownership opportunities for residents who live and work in Sussex County. Applicants for a moderately priced housing unit (MPHU) would have to be a permanent resident of the County for a minimum of three years and must be currently employed within the County for at least one-year prior to submitting an application. Guidelines would target families earning 125 percent of median income (\$68,875 for a family of 4) and 100 percent of median income \$55,100 for a family of 4).

The proposal would offer incentives and bonuses to developers that choose to produce MPHUSs including a bonus density in areas with water and sewer; fully utilizing the zoning the property has been designated; and an expedited review period. The program would be voluntary.

It was noted that a draft ordinance would have to be written and introduced prior to scheduling a public hearing.

Councilmembers expressed concern about the eligibility requirements, compliance, and the fact that the program does not address the low-income housing needs.

It was the consensus of the Council to hold a public workshop on the proposal. Councilman Phillips suggested that information on the proposal should be sent to area developers to gauge their interest in the program and to invite them to attend the workshop. The workshop will be scheduled for July 26th at 1:00 p.m.

**Wastewater
Agreement**

Mr. Stickels reviewed a Wastewater Agreement between Sussex County and Swann Cove, LLC for wastewater facilities to be constructed in Swann Cove, Phase II, in the Fenwick Island Sanitary Sewer District.

M 357 05
Execute
Agreements/
Swann
Cove, LLC

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 503, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Swann Cove, LLC, for wastewater facilities to be constructed in the Village at Bear Trap Dunes, located in the Fenwick Island Sanitary Sewer District.

M 357 05
(continued)

Motion Adopted: 5 Yea.

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

Adminis-
trator's
Report

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

1. Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities

The Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities will meet on Monday, July 18, 2005, at 10:00 a.m. The meeting will take place at the Sussex County West Administrative Complex on North DuPont Highway, Georgetown, Delaware. The media as well as the general public is welcome to attend.

2. Airport Committee Meeting

The next regularly scheduled meeting of the Sussex County Airport Committee will be held on Wednesday, July 13, 2005, at the Sussex County West Administrative Complex, North DuPont Highway, Georgetown, Delaware, starting at 6:00 p.m. The media as well as the general public is invited to attend the meeting.

3. Delaware Department of Transportation Public Workshops

The Delaware Department of Transportation will be holding two public workshops:

- The first workshop will be held on Thursday, July 14, 2005, at the Indian River Fire Company, Station 2, Banks Road, Long Neck. The public is invited to attend any time between 4:00 and 7:00 p.m.

The purpose of the workshop is to discuss the improvements to S 298, Banks Road. This work includes the addition of shoulders, improvement of existing pavement conditions, drainage improvements, and improvements to the existing Route 24 and Route 23 intersections.

- The second workshop will be held on Thursday, July 21, 2005, from 4:00 to 7:00 p.m. at City Hall, 414 High Street, Seaford, Delaware. The purpose of the public workshop is to discuss improvements to reduce congestion and improve safety of the intersections at U.S. 13 and Herring Run Road/Tharp Road, Stein Highway, Middleford Road, and Concord Road.

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

Interested parties should attend these workshops.

4. Council Meeting Schedule

The Sussex County Council will take a summer recess on Tuesday, July 5, and Tuesday, July 12, 2005. The next regularly scheduled Council meeting will be at 6:30 p.m. on Tuesday, July 19, 2005.

5. Holiday Schedule

County offices will be closed on Monday, July 4, 2005, to allow employees to observe Independence Day. Offices will reopen at 8:30 a.m. on Tuesday, July 5, 2005.

**Insurance
Recommen-
dation**

Mr. Baker discussed the results of the County's Request for Insurance Proposals for the period July 1, 2005 through June 30, 2008. On May 25th, bids were opened and proposals were received, as follows:

- 1) L& W Insurance – Airport Liability only.
- 2) Pratt Insurance – all required policies, except for Crime and Airport Liability.
- 3) Marsh USA, Inc. – all required policies, except for Workers Compensation.

Mr. Baker noted that again, no proposals were received for Ocean Outfall liability. He also noted that one bid was received one-half hour after the deadline and was returned.

Mr. Baker previously reported these results to the Council at the June 7th meeting. At that time, he advised that the County's Insurance Consultant and Risk Management Consultant, Insurance Buyers Council (IBC), would be evaluating the bids for the purpose of making a recommendation to the Council.

Scott Agar of Insurance Buyers Council presented his recommendation for insurance purchases for the next three years. As a result of their review of the proposals received, Mr. Agar recommended that the County secure all insurance coverages from Pratt Insurance with the exception of Airport Liability insurance, which he recommended be awarded to L&W

Insurance. Mr. Agar noted that they prefer L&W's airport liability coverage due to the higher personal injury limit. The County has also had acceptable results from the insurer in getting coverage for the occasional airmets at the airport. The total estimated cost of the recommended coverages is \$1,084,536. The recommended program would be a 7% increase in total estimated premium, driven primarily by the increase in workers compensation costs.

Recommendation (continued) Mr. Agar and Mr. Baker recommended one change to the proposal; an increase in the crime insurance limit to \$5,000,000 which would cost the County an additional \$1,720.00.

**M 358 05
Authorize
Insurance
Purchase
for
7/1/2005
through
6/30/2008** A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Council authorizes the purchase of insurance for the period July 1, 2005 to June 30, 2008, as recommended by Insurance Buyers' Council and the County Finance Department, binding coverage with Pratt Insurance and L & W Insurance companies, including an increase in the crime insurance limit to \$5,000,000 and a broker of record letter transferring broker responsibility from Marsh USA, Inc. to Pratt Insurance, Inc.

Motion Adopted: 5 Yea.

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

**Proposed Ordinance/
Post
Employment
Benefit
Plan** The County Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO ADOPT CHAPTER 27 OF THE CODE OF SUSSEX COUNTY TO CREATE A POST EMPLOYMENT BENEFIT PLAN TO PAY OTHER THAN PENSION BENEFITS TO RETIRED COUNTY EMPLOYEES AND TO AUTHORIZE COUNCIL TO IMPLEMENT AND FUND THE PLAN". A Public Hearing was held on the Proposed Ordinance on June 7, 2005 at which time action was deferred.

Mr. Baker explained that the Council previously approved funding in the amount of \$2,386,561 to the Pensioner Benefit Fund to pay post employment benefits to employees who are receiving pensions. These benefits include such items as payment of health insurance premiums, and vision and dental care benefits. Approximately 86 former County employees are receiving some form of other post employment benefits at the present time. The purpose of this Ordinance is to formally codify the present policy of the County under which these benefits are being paid and to create a formal plan as a basis for the payment of such benefits now and in the future. The Proposed Ordinance would authorize the establishment of a trust account for the purpose of funding the County's pensioner benefits.

Mr. Baker briefly reviewed the contents of the Proposed Ordinance. (See

the June 7th minutes for complete details.)

M 359 05
Adopt
Ordinance
No. 1783

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1783 entitled “AN ORDINANCE TO ADOPT CHAPTER 27 OF THE CODE OF SUSSEX COUNTY TO CREATE A POST EMPLOYMENT BENEFIT PLAN TO PAY OTHER THAN PENSION BENEFITS TO RETIRED COUNTY EMPLOYEES AND TO AUTHORIZE COUNCIL TO IMPLEMENT AND FUND THE PLAN”.

M 359 05
(continued)

Motion Adopted: 5 Yea.

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

Fenwick
Island
SSD/
WR&A
Contract
Amend-
ment

Mr. Archut, County Engineer, presented a proposed amendment to the County’s current contract with Whitman, Requardt & Associates (WR&A) for the South Coastal Planning Area. In March 2004, the Council approved Amendment No. 25 for the review of the wastewater capacity in the existing pipelines in the Fenwick Island Sanitary Sewer District. Mr. Archut announced that the report has been completed; the report identifies a number of problems that have to be addressed in the pipelines. The two areas identified have been given two different time periods; one area will require improvements in the next three to five years and one area will require improvements after the Year 2013. Mr. Archut stated that, with this Amendment, they are proposing that the services of a flow monitoring group be retained to monitor ten different sites along the pipeline during peak-time to verify the findings of the report. Whitman, Requardt & Associates would oversee this work. Following the monitoring period, a summary of information would be prepared and submitted to the County. This monitoring study would confirm in what time period the improvements should be made and it would provide better information for planning decisions. Mr. Archut reported that the proposed amendment would cost \$45,796.00; this amount is included in the Fiscal Year 2006 Budget. Two-thirds of the cost would be for the sub-consultant who would do the monitoring; the remainder would be for Whitman, Requardt & Associates to do the oversight. The monitoring would begin on the July 4th weekend. Mr. Archut noted that WR&A obtained three prices for the work and this proposal was the cheapest.

M 360 05
Execute
Contract
Amendment
with
WR&A/
Fenwick
Island
SSD

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council authorizes its President to execute Amendment No. 30 to its contract with Whitman, Requardt & Associates, LLP, to perform the Fenwick Island Sanitary Sewer District Flow Study, at a cost of \$45,796.00, subject to the approval of the Assistant County Attorney and the Finance Coordinator.

Motion Adopted: 5 Yea.

**Flow
Study**

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

**Proposed
Land
Acquisition
Proposed
Land
Acquisition/
Angola
Landfill
(continued)**

Mr. Izzo, County Engineer, discussed a proposal to purchase a 6.89 acre parcel of land adjacent to the Angola Landfill. Mr. Izzo stated that the County needs to be proactive in purchasing lands around each of the six landfill sites to provide additional buffers. Additional buffers would lessen groundwater concerns and would be beneficial in limiting public access to the landfills. Mr. Izzo reported that a subdivision has been proposed adjacent to the Angola landfill. Through the Technical Advisory Committee process, it was recommended that the developer implement a buffer; as the subdivision is currently drawn, there would be a 375-foot buffer between the property and the landfill. The County is proposing to purchase the 6.89 acres at a cost of \$50,000 per acre for a total of \$344,500.00. Mr. Izzo reported that funding for land acquisition around the landfills is an on-going budget item and funds are available for this purchase. In response to questions, Mr. Izzo reported that the fencing around the landfill will be replaced to secure the property.

**M 361 05
Approve
Land
Purchase/
Angola
Landfill**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the purchase of 6.89± acres adjacent to the Angola Landfill at a cost of \$50,000.00 per acre, and authorizes the Assistant County Attorney to complete the transfer of the property.

Motion Adopted: 5 Yea.

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

**Plan
Reviews/
Revised
Fee
Schedule**

Mr. Izzo, County Engineer, presented a revised fee schedule for plan reviews, which was proposed by CABA Associates. In 2004, the Engineering Department began subcontracting out plan review work to CABA. CABA reviews plans for road systems and soil and water systems for new developments in the County. CABA has informed the County that in order for the plan reviews that they perform to be profitable, the fees need to be increased. Mr. Izzo distributed and reviewed a schedule of proposed fees, which outlined the fees that CABA is proposing to increase. Mr. Izzo noted that the proposed fee increases would be in place for a period of eighteen months, beginning on July 1, 2005. The fees would be reviewed again on December 31, 2006.

**M 362 05
Approve
Revised
Fee**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based on the recommendation of the County Engineering Department, that the Sussex County Council approves the revised fee schedule for plan reviews effective July 1, 2005, and authorizes its President to execute an amended agreement

**Schedule
for
Plan
Reviews**

with Cabe Associates, Inc.

Motion Adopted: 5 Yea.

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

**Joy
Beach
Project**

Mr. Izzo reviewed Change Order No. 2 for the Joy Beach Suburban Community Improvement Project Agreement. The change order, in the amount of \$2,526.00, is a result of the homeowners requesting additional top soil and seeding during the road repaving project.

**M 363 05
Approve
Change
Order/
Joy
Beach
Suburban
Community
Improve-
ment
Project**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2 be approved for Sussex County Council Project No. 04-01, Joy Beach Suburban Community Improvement Project, increasing the total contract price from \$123,568.85 to \$126,095.60.

Motion Adopted: 5 Yea.

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

**Bay View
and Sea
Country
Estates
SSD/
Change
Order**

Mr. Izzo reviewed Change Order No. 1 for the Sea Country Estates Sanitary Sewer Project. He reported that the roads were originally tar and chip. In the process of putting in the sewer lines, the residents requested that the roads be upgraded to hot mix. Mr. Izzo suggested that the cost of the upgrade (\$35,760.00) be included in the project. Mr. Izzo advised that, since a pump station was eliminated from the project, the project budget could withstand this cost increase.

**M 364 05
Approve
Change
Order/
Bay View
and Sea
Country
Estates
SSD**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, LLP and the County Engineering Department, that Change Order No. 1 for Sussex County Project No. 03-04, Bay View and Sea Country Estates Sanitary Sewer District, with Edward McGinn General Contractors, Inc., be approved in the amount of \$35,760.00, which increases the contract total to \$3,595,920.00.

Motion Adopted: 5 Yea.

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

**M 365 05
Youth**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$200.00 (\$100.00 each from Mr. Dukes' and Mr. Phillips' Youth Activity

Activity Grant **Grant Accounts) to the At-Promise Youth Foundation for tournament expenses for Michael and Kory Belle.**

Motion Adopted: 5 Yea.

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

Introduction of Proposed Ordinance **Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PUBLIC AUCTION BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.24 ACRES, MORE OR LESS” (Conditional Use No. 1634) filed on behalf of Thomas and Sylvia Trice. The Proposed Ordinance will be advertised for Public Hearing.**

M 366 05 Recess **At 12:34 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.**

Reconvene **Mr. Jones called the Council back into session at 1:35 p.m.**

Public Hearing (C/U No. 1611) **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 REPAIRS AND MANUFACTURING OF SHIPPING CONTAINERS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.2 ACRES MORE OR LESS” (Conditional Use No. 1611) filed on behalf of Greenwood Pallet Co., Inc.**

The Planning and Zoning Commission held a Public Hearing on this application on June 9, 2005 at which time they recommended that the application be approved with conditions.

(See the minutes of the Planning and Zoning Commission dated June 9, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

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

The Council found that T. J. Tennefoss, owner of Greenwood Pallet Co., Inc., was present. He stated that he leases the site where the business is currently located; that his business has grown and he needs a permanent site for the business; that the business is for the production and repair of pallets, 60% of which is for the agricultural industry; that the site is appropriate because of its nearness to Route 404 and its prior use as a

commercial hatchery; that he proposes to erect a privacy fence; that pallets will be stored in the proposed storage area or indoors; and that wooden pallets would only be stored outdoors for a short time.

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

M 367 05
Adopt
Ordinance
No. 1784
(C/U
No. 1611)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1784 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR REPAIRS AND MANUFACTURING OF SHIPPING CONTAINERS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.2 ACRES MORE OR LESS” (Conditional Use No. 1611) filed on behalf of Greenwood Pallet Co., Inc., with the following conditions:

1. The final site plan shall depict the location of the solid fence and shall be subject to review and approval by the Planning and Zoning Commission. The pallets shall not be stacked any higher than the fence.
2. The fencing shall provide screening from all public roads.
3. There shall be no outside storage of anything, except for vehicles, trailers, pallets, and related materials and equipment, not to be stacked any higher than the fence.
4. Business hours shall be limited to 6:00 a.m. to 5:00 p.m. Monday through Friday during the summer months; 7:00 a.m. to 5:00 p.m. Monday through Friday during the winter months; and Saturdays from 7:00 a.m. to 1:00 p.m. There shall be no Sunday business hours.
5. There shall be no dismantling, repair work or manufacturing outside.
6. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

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

Public
Hearing
(C/U
No. 1612)

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (87 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.6 ACRES, MORE OR LESS” (Conditional Use No. 1612) filed on behalf of Canal Place, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on June 9, 2005 at which time they deferred action.

(See the minutes of the Planning and Zoning Commission dated June 9, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Public
Hearing
(C/U
No. 1612)
(continued)

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the County Council's record.

Mr. Lank reported that three pieces of correspondence have been received since the Public Hearing before the Commission. A letter was received from Representative Gerald W. Hocker asking that the Commission review this case in its entirety and to table the application until such time that all of the legal questions that remain can be answered. A letter was received from Patricia Weyl questioning the legal issues that exist regarding this application and regarding the actions of the Assistant County Attorney during the Public Hearing before the Commission. A letter was received from the Office of State Planning Coordination regarding the applicant's response to the PLUS comments. The letter states that "After reviewing the response letter from Mr. Kea, it appears that Canal Place, LLC has worked to address many of our issues and will continue to work with the agencies as this plan moves forward."

Mr. Lank reported that the record contains information regarding the Court of Chancery's decision regarding Lynn Lee Mobile Home Park, which was provided by Linda Hanna.

The Council found that James Fuqua, Attorney; Richard Polk of ESP Design Services, Inc., Ed Launay of Environmental Resources, Inc.; and Daniel McGreevy, one of the principals of the application, were present. They stated that the application is for 87 single family detached condominium units; that the entrance to the site is located on the west side of Cedar Neck Road; that the site is known as Lynn Lee Village Mobile Home Park; that the site currently contains 87 mobile home lots; that in 1988, the Park was purchased by Key Box Five and they entered into 99-year leases with the lot tenants; that since that time, the Park has operated under those leases; that during that time, several issues have been litigated between the owners and the tenants; that in 2003, the owners sent notices to the tenants that they intended to change the land use of the Park and that the leases would be terminated; that the notices resulted in litigation between the tenants and the owners in the Court of Chancery; that the Court upheld the termination of the leases and the right of the owner to sell the property; that the Court did require that the owner would have to pay the tenants for the value of the remaining term of the leases; that Canal Place, LLC is not the current owners of the parcel and was not involved in the litigation; that Canal Place, LLC has entered into a contract with the owner; that a newspaper article incorrectly stated that (1) the requested density would be the highest density in Sussex County and (2) that if the application were approved, it would affect the leases of 50,000 mobile home tenants; that this application, in fact, will not terminate the Lynn Lee leases

Public
Hearing
(C/U
No. 1612)
(continued)

because the Court of Chancery has already terminated those leases; that the majority of the residents, with the exception of four, have entered into a Stipulated Settlement Order; that litigation is pending and a Court of Chancery hearing is scheduled in July regarding the settlement agreement and the four residents that are refusing to sign the agreement; that this application is a land use request and the legal issues should not be considered; that the parcel of land consists of three fingers of land separated by canals; that the existing on-site water supply system would be discontinued; that domestic water and fire protection would be provided by Sussex Shores Water Company; that the site is located within the Cedar Neck Sanitary Sewer District; that no traffic impact study is required; that all of DelDOT's requirements would be met; that the density of 6 units per acre would be maintained; that they propose to work with DNREC to remove the hodge-podge system of docks and replace it with a community system of docks; that the docks would be handicapped accessible; that no wetlands would be impacted; and that the existing road bed would be used, with improvements.

Mr. Fuqua clarified one comment in Mr. Lank's summary regarding DelDOT's service level evaluation. Mr. Lank reported that, as a result of this development, the level of service at the main intersection would go from C to D. Mr. Polk stated that, in reality, DelDOT computed this service level evaluation based on all of the other committed background development in the area and that if this neighborhood was considered on its own, the level of service would not change and would stay as C.

Lois Dolby, a resident of Lynn Lee Village, stated that all of the concerned tenants, with the exception of four, have accepted the Chancery Court's ruling and agreed to the terms of sale.

There were no additional public comments.

Mr. Fuqua submitted proposed conditions and findings of fact for the Council's consideration.

M 368 05
Defer
Action
(C/U
No. 1612)

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to defer action on Conditional Use No. 1612 filed on behalf of Canal Place, LLC.

Motion Adopted: 5 Yea.

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

M 369 05
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to adjourn at 2:40 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council