

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 11, 2017**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 11, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:**

|                             |                             |
|-----------------------------|-----------------------------|
| <b>Michael H. Vincent</b>   | <b>President</b>            |
| <b>George B. Cole</b>       | <b>Vice President</b>       |
| <b>Robert B. Arlett</b>     | <b>Councilman</b>           |
| <b>Irwin G. Burton III</b>  | <b>Councilman</b>           |
| <b>Samuel R. Wilson Jr.</b> | <b>Councilman</b>           |
| <b>Todd F. Lawson</b>       | <b>County Administrator</b> |
| <b>Gina A. Jennings</b>     | <b>Finance Director</b>     |
| <b>J. Everett Moore Jr.</b> | <b>County Attorney</b>      |

**The Invocation and Pledge of Allegiance were led by Mr. Vincent.**

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 143 17  
Approve  
Agenda**

**A Motion was made by Mr. Arlett, seconded by Mr. Cole, to approve the agenda, as posted.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Procla-  
mations/  
Tributes**

**Mr. Vincent stated that Council would move forward on the Agenda for the presentation of Proclamations and Tributes to the following:**

**Milford High School Wrestling Team for winning the DIAA title as Division II State Champions**

**Sussex Central High School Wrestling Team for winning the DIAA title as Division I State Champions**

**Rashad Stratton of Sussex Central High School Wrestling for winning the title of DIAA Individual Wrestling Tournament Champion (126-pound class)**

**Blake Chambers of Sussex Central High School Wrestling for winning the title of DIAA Individual Wrestling Tournament Champion (170-pound class)**

**Proclamations/  
Tributes  
(continued)**

**Cory Lawson of Cape Henlopen High School Wrestling for winning the title of DIAA Individual Wrestling Tournament Champion (160-pound class)**

**Robbie Rosser of Milford High School Wrestling for winning the title of DIAA Individual Wrestling Tournament Champion (113 pound class)**

**Bryan Wynes of Milford High School Wrestling for winning the title of DIAA Individual Wrestling Tournament Champion (285-pound class)**

**Georgetown Elementary School Robotics Team for earning the Delaware VEX IQ Challenge Excellence Award**

**Selbyville Middle School Robotics Team for earning the Delaware VEX Robotics Competition Excellence Award**

**Cape Henlopen High School Robotics Team for earning the Delaware VEX Robotics Competition Excellence Award**

**Indian River High School Cheerleading Team for winning the title of Delaware Cheerleading Co-ed State Champions**

**M 144 17  
Approve  
Minutes**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to approve the minutes of March 27 and 28, 2017.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Corre-  
Spondence**

**Mr. Moore read the following correspondence:**

**DELAWARE TECHNICAL & COMMUNITY COLLEGE, GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of grant.**

**Public  
Comments**

**Public Comments**

**Dan Kramer commented on single wide trailers being permitted on commercially zoned property.**

**Jeffrey Frey, owner of Fat Daddy's BBQ & Grille, commented on the eight industrialized poultry houses that are to be constructed across from his business on Route 404/Seashore Highway. Mr. Frey asked that a Traffic Impact Study be performed before the construction of this poultry project is allowed to proceed.**

**Maria Payan referenced the eight poultry barns planned for construction on Route 404 and she submitted a "Petition to Protect Route 404 Residents**

**Public  
Comments  
(continued)**

**and Business” asking the Council to “act now to protect the safety, health, quality of life and property values of homeowners and established businesses on Route 404 and the surrounding community in Sussex County” and requesting a temporary moratorium on building permits until a Traffic Impact Study is done.**

**Paul Reiger commented on the need for regulating tires/scrap tires and he referenced the State of Delaware’s definition change and the fact that the Office of the State Fire Marshal did not change its definition.**

**D.J. Hughes spoke regarding the Henlopen TID and asked that the County not move forward with it.**

**M 145 17  
Approve  
Consent  
Agenda**

**A Motion was made by Mr. Arlett, seconded by Mr. Burton, to approve the following items listed under the Consent Agenda:**

**Wastewater Agreement No. 878-3  
Sussex County Project No. 81-04  
DRC Properties, LLC – Phase 2  
Fenwick Island Sanitary Sewer District**

**Wastewater Agreement No. 623-3  
Sussex County Project No. 81-04  
Solitude on Whites Creek – Phase 1B  
Millville Expansion of the Bethany Beach Sanitary Sewer District**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Update/  
The  
Freeman  
Stage at  
Bayside**

**Patti Grimes, Executive Director of the Joshua M. Freeman Foundation, presented an update on The Freeman Stage at Bayside and the progress they have made in bringing the arts to Sussex County. As part of the Joshua M. Freeman Foundation, they partner to present memorable performances and inspire arts education for all. Ms. Grimes reported on the 2016 season and the upcoming events planned for the 2017 season. Ms. Grimes stated that The Freeman Stage is a vessel for presenting a myriad of arts performances throughout the summer, and they could not promote the arts without their many volunteers and funding support. Ms. Grimes thanked the Council for its past partnership and continued financial support for transportation costs for children to attend events at The Freeman Stage.**

**Update on  
State/  
County  
Finance &  
Revenue  
Committee**

**Mr. Lawson provided an update on the State/County Finance and Revenue Committee which is reviewing the current budget situation with the State and looking to find potential revenue and savings at the State level. Mr. Lawson talked about the proposals being discussed, i.e. First Time Homebuyers Tax Credit modifications, Senior Tax Credit modifications,**

Update on  
State/  
County  
Finance &  
Revenue  
Committee  
(continued)

Vape tax, tax on home-based lodging businesses, and a proposal by the Delaware Association of Realtors. Ultimately, the Committee will make a recommendation to the Delaware General Assembly. Mr. Lawson noted that the Committee met on March 23rd and will meet again on May 4th.

Mr. Lawson distributed a print-out from the Delaware Association of Realtors entitled *Economic Impact of Real Estate in Delaware*.

Adminis-  
trator's  
Report

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

Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Subcommittee Meeting

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Conference Planning Subcommittee will meet on Monday, April 17<sup>th</sup>, at 10:00 a.m. at the CHEER Community Center, 20520 Sand Hill Road, in Georgetown. During the meeting, the Subcommittee will continue to discuss planning for the annual conference scheduled for October 18<sup>th</sup>.

Opioid Awareness Workshop

Representative Ruth Briggs King will be hosting an awareness workshop for opioid addictions and related issues at the Long Neck Elementary School on Wednesday, April 12<sup>th</sup>, at 6:30 p.m. The Drug Enforcement Administration will provide a presentation, and other community partners, including EM Director Robert Stuart, will be on hand to provide supporting information and to efforts at the local level.

Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Coastal Club - Lan Bay 4 - Phase 2 received Substantial Completion effective April 5<sup>th</sup>.

Holiday and Council Meeting Schedule

A reminder that County offices will be closed on Friday, April 14<sup>th</sup>, to observe the Good Friday holiday. In addition, Council will not meet on Tuesday, April 18<sup>th</sup>. The next regularly scheduled Council meeting will be held on April 25 at 10:00 a.m.

Betty Jo Collins

It is with sadness that we note the passing of County pensioner Betty Jo Collins on Tuesday, March 28<sup>th</sup>. Ms. Collins began her career with Sussex County in November 1987 and retired from the Recorder of Deeds as a Cler II in November 1995 with eight years of service. We would like to extend our condolences to the Collins family.

[Attachments to the Administrator's Report are not attachments to the minutes.]

**Possible  
Sewer  
Assessment  
Legislation**

**Gina Jennings, Finance Director, presented draft legislation to be introduced in Dover (Delaware General Assembly of the State of Delaware). The legislation is a result of Council's direction to continue to pursue another method to bill sewer debt other than by front footage. The draft legislation is entitled "AN ACT TO AMEND TITLE 9, SECTIONS 6505(b) AND 6514 OF THE DELAWARE CODE CONCERNING THE DELETION OF FRONT FOOTAGE CALCULATION AS THE ONLY METHOD OF DETERMINING SEWER ASSESSMENTS".**

**Synopsis: This legislation eliminates front footage calculations as the sole method of collecting sewer assessments for County sewer users. It provides a broad list of possible methods of determining the amount of the sewer assessment for each property, including, but not limited to front footage, usage, fixtures, Equivalent Dwelling Units (EDUs) or other factors. The methods are the same as those currently in Chapter 67 of the Delaware Code for sewer charges.**

**Mrs. Jennings reviewed the current process and the pros and cons of two different options: front footage and EDU/Consumption Base. Mrs. Jennings also reviewed Kent County's and New Castle County's process.**

**Mrs. Jennings reported that this change would require amending State Code, i.e. with the adoption of the Draft Legislation, and would require amending County Code through the public hearing process.**

**M 146 17  
Gather  
Support  
of Sewer  
Assessment  
Legislation**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, that the Sussex County Council authorizes Administration to gather support of legislation that amends Title 9, Sections 6505(b) and 6514 of the Delaware Code concerning the deletion of front footage calculation as the sole method of determining sewer assessments.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
The Estates  
of Sea  
Chase  
Chapter 96  
Project**

**A Public Hearing was held on The Estates of Sea Chase Chapter 96 Sussex Community Improvement Project #16-32.**

**Patti Deptula, Director of Special Projects, presented the final assessment roll for The Estates of Sea Chase Chapter 96 Sussex Community Improvement Project #16-32. Mrs. Deptula stated that the following were mailed to the property owners of record in The Estates of Sea Chase: the notice of public hearing, the project's final costs, and the assessment roll. Mrs. Deptula reported that the project was publicly bid and awarded to Jerry's, Inc., the lowest bidder; all construction items are substantially completed. The total project cost is \$83,011.65. The community has opted to contribute a Chapter 99 bond refund received in the amount \$55,000.00**

**Public Hearing/  
The Estates of Sea Chase Chapter 96 Project (continued)**

to help offset the total project cost; once this amount is deducted, the total project cost will be \$28,011.65. The final assessment rate will be \$76.75 annually per assessable property for a 10 year time period, using a 4% interest rate; there is an option to pay off the entire amount by making a one-time lump sum payment in the amount of \$622.48.

Public comments were heard.

Bob Kaden was present and stated that he represents The Estates of Sea Chase; he expressed thanks to Mrs. Deptula and Engineering staff, and the County Council, for making this improvement program possible.

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

**M 147 17 Approve The Estates of Sea Chase Chapter 96 Sussex Community Improvement Program**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineer, and the Sussex County Finance Director, and in accordance with Sussex County Code, Chapter 96 Sussex Community Improvements, that Sussex County Council approves The Estates of Sea Chase Chapter 96 Sussex Community Improvement Project #16-32 Assessment Roll, dated March 1, 2017, and that each assessable property within the Project pay the final assessment rate of \$76.75 annually for a ten (10) year time period, with the option to make a one-time lump sum payment of \$622.48. Sussex County Council authorizes the Director of Finance to proceed with the billing for each property in accordance with the Chapter 96 Code.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea

**Presentation of New PulsePoint Software**

Joe Thomas, Director of Emergency Operations, along with several representatives from Emergency Medical Services including Robert Stuart, Director of EMS, announced the rollout of PulsePoint Respond®, a new life saving technology. PulsePoint is a mobile app that citizens can download for the purpose of providing assistance in the event of a cardiac arrest. The product is free and is intended for anyone with a smartphone who is trained in providing cardiopulmonary resuscitation. It works only for cardiac events and only in public venues, not in private residential settings. The app will be a critical tool that complements professional emergency care, especially when time is of the essence; the app will help in improving bystander response to cardiac arrest victims and increasing the chance that lifesaving steps will be taken prior to the arrival of emergency medical services. Mr. Thomas announced that the app will go live on this date in Sussex County. Sussex County is the first jurisdiction in Delaware to implement PulsePoint Respond®. To learn more, residents can visit [www.pulsepoint.org/pulsepoint-respond](http://www.pulsepoint.org/pulsepoint-respond) or call (302) 855-7801.

**Update of the Multi-Jurisdictional All Hazard Mitigation Plan**

Joe Thomas, Director of EOC, provided an update on the Sussex County Multi-Jurisdictional All Hazard Mitigation Plan. Mr. Thomas noted that the lengthy document was included in Council packets for this meeting. The document was originally written in 2005; the County is required by FEMA to review and update the Plan every five years. Mr. Thomas explained that the Plan provides guidance for hazard mitigation in Sussex County and identifies hazard mitigation goals, objectives, and recommended actions and initiatives for county and municipal governments to reduce injury and damage from disasters. Mr. Thomas explained that, without this document adopted by County Council, funding eligibility from federal grants becomes obsolete; an approved plan has to be in place in order to be eligible for disaster mitigation funds as well as other disaster recovery programs.

Mr. Thomas reported that a Consultant assisted with the preparation of the plan; additionally, twenty municipalities participated in public forums. The Plan has been sent to FEMA for review and on March 27, 2017, FEMA advised that the Plan has been approved pending adoption by the County Council.

**M 148 17  
Adopt  
Sussex  
County  
Multi-  
Juris-  
dictional  
Mitigation  
Plan  
Update**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the Sussex County Council adopts the FEMA-approved Sussex County Multi-Jurisdictional All Hazard Mitigation Plan Update in order to allow eligibility for future federal grants and disaster recovery programs.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Henlopen  
TID Process  
Update**

Janelle Cornwell, Director of Planning and Zoning, provided an update on the TID (Transportation Improvement District) process. On August 20, 2016, the Council voted to move forward with the TID process; on February 21, 2017, DelDOT Secretary Jennifer Cohan indicated to Council that there were several next steps in the process, one of which is to create a parcel level build-out analysis of properties within the TID boundary (Henlopen TID). Ms. Cornwell advised that staff, Legal Counsel, and Kyle Gulbranson of AECOM met to discuss the next step. Ms. Cornwell also advised that, included in Council's packet was the proposed Scope of Work. The Scope of Work, at a cost not to exceed \$7,000.00, is to perform a build-out analysis as part of the Henlopen TID study; this Scope of Work is expected to take place over a four week period. The build-out will be based on the current zoning of the vacant properties. Once the baseline has been completed, it will be presented to the Council for review and consideration.

Mr. Vincent reported on a letter received from Mabel Granke asking that Council place the Transportation Improvement District within the context of the Land Use Plan Update.

**M 149 17  
Approve  
Scope of  
Work/  
Henlopen  
TID Process**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, that the Sussex County Council approves the Scope of Work as outlined in Exhibit B (presented on this date) to AECOM's Planning Services Agreement to perform a parcel level build-out analysis for the proposed Henlopen TID for a cost not to exceed \$7,000.00.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Compre-  
hensive  
Land Use  
Plan  
Update**

**Janelle Cornwell, Director of Planning and Zoning, and Vince Robertson, Assistant County Attorney, provided an update on the Comprehensive Land Use Plan process. They stated that the Planning and Zoning Commission has met several times and has looked at the Historic Preservation Chapter, a Vision Statement, Economic Development and Community Design chapters, Future Land Use Chapter, and the Utility element. Presentations have been given by electrical providers, gas providers, water providers, internet broadband providers, construction firms, and the County Engineering Department. They noted that the Commission's meetings have also involved staff and the Consultant, McCormick Taylor; additionally, public comments were heard.**

**They stated that, when the Planning and Zoning Commission has a draft of an Element of the Plan, it will be shared with the Council, possibly in batches.**

**Council discussed that communication is needed throughout the entire process; that the Council needs to be involved; and that each draft Element needs to be presented to Council upon completion.**

**Mr. Cole referenced mega poultry farms (agri-industrial uses) and asked that the Planning and Zoning Commission consider the possibility of an Agricultural District where large scale agricultural uses would be directed, i.e. Agricultural Farmland Preservation District lands. With the exception of Mr. Wilson, there was no objection to this by the other Councilmembers.**

**Ms. Cornwell stated that the second round of public hearings have been scheduled and will take place on the following dates: May 1<sup>st</sup> at Laurel Fire Department, May 2<sup>nd</sup> at CHEER in Georgetown, May 3<sup>rd</sup> at Frankford Fire Department, May 10<sup>th</sup> at Milford Senior Center, and May 16<sup>th</sup> at Beacon Middle School, Lewes (5:00 p.m. to 7:00 p.m.).**

**Taxiway D/  
Grant  
Request**

**Jim Hickin, Director of Airport and Industrial Park, and Hans Medlarz, County Engineer, presented a request for an Airport Improvement Program (AIP) grant for Sussex County Project 17-20, Construct Taxiway D – Design. This grant will help fund only the design portion of the overall construction project. Mr. Hickin reported that Taxiway D will be a full**



**Taxiway D/  
Grant  
Request  
(continued)**

length parallel taxiway to the existing crosswind taxiway (Runway 10-28). He noted that this would be new construction that has been included in the FAA-approved Master Plan since 2007 and has been in the County's Budget in the 5-Year Capital Plan since 2009; and that the County has been working with the FAA for approximately five years. Construction of the taxiway will allow for the development of 12 large corporate size hangars and nearly 19 acres of aircraft parking apron. The taxiway will also support the development of GPS based instrument approaches to both ends of Runway 10-28. The FAA considers these approaches a high safety priority. The County selected Delta Airport Consultants in 2013 to provide engineering services for all airport projects over a five-year period, including this project, and they propose to perform this work at a cost not to exceed \$470,496. An additional \$7,500 in miscellaneous administrative costs will also be included in the project. The FAA grant will pay for 90% of the total cost (\$430,196) and the County and State will contribute 5% each (\$23,900).

**M 150 17  
Request  
Airport  
Improve-  
ment  
Program  
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based on the Engineering Department's recommendation, Sussex County Council approves the Engineering Department requesting an Airport Improvement Program Grant in the amount of \$430,196 for Sussex County Project 17-20, Construct Taxiway D-Design.

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

**Vote by Roll Call:** Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Nay; Mr. Cole, Yea;  
Mr. Vincent, Yea

**Agenda  
Order**

Mr. Vincent stated that Council would move forward on the Agenda to Old Business and then to Executive Session.

**Old  
Business/  
C/Z 1812**

The Council considered Change of Zone No. 1812 filed on behalf of Oxford Chase Development Corp. – c/o Howard Crossan.

The Planning and Zoning Commission held a Public Hearing on this application on February 9, 2017 at which time the Commission recommended approval.

The County Council held a Public Hearing on this application on March 14, 2017, at which time action was deferred.

Janelle Cornwell, Director of Planning and Zoning, stated that, upon deferring action on the application, Council asked that County staff reach out to the Applicant regarding a B-1 application. In response, the Applicant chose not to withdraw their application for CR-1 zoning.

It was noted that, on March 14th, Mr. Burton recused himself from the Public Hearing on this application.

**M 151 17  
Adopt  
Ordinance  
No. 2490  
(C/Z 1812)**

**A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2490 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.98 ACRES, MORE OR LESS” (Change of Zone No. 1812) filed on behalf of Oxford Chase Development Corp. – c/o Howard Crossan.**

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

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Recused;  
Mr. Wilson, Yea; Mr. Cole, Nay;  
Mr. Vincent, Yea**

**M 152 17  
Go Into  
Executive  
Session**

**At 12:57 p.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters relating to personnel and job applicants’ qualifications.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Executive  
Session**

**At 1:05 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to personnel and job applicants’ qualifications. The Executive Session ended at 1:35 p.m.**

**M 153 17  
Reconvene  
Regular  
Session**

**At 1:38 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to come out of Executive Session and reconvene the Regular Session.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**M 154 17  
E/S Action/  
Offer of  
Employ-  
ment**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to move forward with references and an offer of employment for Candidate F.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Rules**

**Mr. Moore read Rules of Procedure for zoning hearings.**

**Public  
Hearing/  
C/Z 1814**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.005 ACRES, MORE OR LESS” (Change of Zone No. 1814) filed on behalf of Stockley Tavern, LLC (Tax I.D. No. 133-6.00-41.00) (911 Address: 26072 DuPont Blvd., Georgetown).**

**The Planning and Zoning Commission held a Public Hearing on this application on February 23, 2017 at which time the Commission deferred action. On March 9, 2017, the Commission recommended that the application be approved.**

**(See the minutes of the Planning and Zoning Commission dated February 23 and March 9, 2017.)**

**Ms. Cornwell, Director of Planning and Zoning, provided a summary of the Commission’s Public Hearing and recommendation of approval.**

**The Council found that Mark Davidson of Pennoni Associates was present with Ken Adams, owner of Stockley Tavern, and Robert Stickels. Mr. Davidson explained the rezoning application and the history of the site, and stated that the rezoning is for a portion of the property known as the Stockley Tavern site; that on the site is a restaurant, a package store and a residential dwelling; that a Traffic Impact Study was not required by DelDOT; that there are other commercial properties in the area; that the building has been remodeled; that the property is in character with the surrounding area; and that the rezoning meets the general purpose of the Zoning Ordinance.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 155 17  
Adopt  
Ordinance  
No. 2491/  
C/Z 1814**

**A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2491 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.005 ACRES, MORE OR LESS” (Change of Zone No. 1814) filed on behalf of Stockley Tavern, LLC.**

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

**M 155 17  
(continued)**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Abstained; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
C/U 2067**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR - 1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL LANDSCAPING MATERIAL SALES AND STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.65 ACRES, MORE OR LESS” filed on behalf of Stockley Materials, LLC (Conditional Use No. 2067) filed on behalf of Stockley Materials, LLC (Tax I.D. No. 334-5.00-192.00) (911 Address: 32402 Lewes Georgetown Highway, Lewes).**

**The Planning and Zoning Commission held a Public Hearing on this application on February 23, 2017 at which time the Commission recommended approval.**

**(See the minutes of the Planning and Zoning Commission dated February 23, 2017.)**

**Janelle Cornwell, Director of Planning and Zoning, reported that this Conditional Use application was previously approved as Conditional Use No. 2024 and that during the parcel consolidation, the legal description changed increasing the size of the previously approved Conditional Use; therefore, requiring a new Conditional Use application.**

**The Council found that Mark Davidson of Pennoni Associates was present with Ken Adams, owner of Stockley Tavern, and Robert Stickels. Mr. Davidson explained the Conditional Use application, the history of the Conditional Use granted in 2015, and the application before Council on this date. He stated that Conditional Use No. 2067 is due to the need for reshaping the property as a result of inaccuracies found in the metes and bounds of the property during the settlement process, i.e. the property lines were not correct in older surveys; that the Final Site Plan excluded the triangle part of the parcel; and that this application is to include that portion of the property. Mr. Davidson stated that there are no changes proposed to the conditions required by the County Council for Ordinance No. 2417 (Conditional Use No. 2024) and that the landscaping plan has been submitted to the County. In response to questions raised by the Council, Mr. Davidson stated that the entrance is off of Route 9, and not Stingey Lane; that Stingey Lane is a public road, and that most of the road is owned by Mr. Adams.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 156 17  
Adopt  
Ordinance  
No. 2492/  
CU 2067**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to Adopt Ordinance No. 2492 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL LANDSCAPING MATERIAL SALES AND STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.65 ACRES, MORE OR LESS" filed on behalf of Stockley Materials, LLC (Conditional Use No. 2067).

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

(It was noted that this Conditional Use is subject to the conditions set forth in Ordinance No. 2417 (CU 2024).

**Public  
Hearing/  
CU 2068**

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 AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 24.9784 ACRES, MORE OR LESS" (Conditional Use No. 2068) filed on behalf of Charles J. Short (Tax I.D. No. 234-28.00-146.00) (911 Address: 30226 Cordrey Road, Millsboro).

The Planning and Zoning Commission held a Public Hearing on this application on February 23, 2017 at which time action was deferred. On March 9, 2017, the Commission recommended that the application be approved with the following conditions:

- A. One lighted sign, not to exceed 32 square feet per side, shall be permitted.
- B. Security lighting shall be downward screened and shall be directed away from the neighboring properties and roadways.
- C. Any dumpsters shall be screened from view of neighbors and the roadways. The dumpster locations shall be shown on the Final Site Plan.
- D. All repairs shall be performed indoors. No automobile parts shall be stored outside.
- E. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.
- F. No more than 10 cars shall be on the site for repairs at any one time.
- G. The area of the Conditional Use shall be limited to the "Paved Driveway", the "Stone Driveway/Entrance" and existing "Metal Building" shown on the "Conditional Use Plan" submitted with the Conditional Use application or approximately 2 acres. These areas

**Public  
Hearing/  
CU 2068  
(continued)**

shall be clearly identified on the Final Site Plan as “Area of Use”. The use shall not expand beyond these areas without an additional public hearing.

- H. The rear perimeter of the Conditional Use area shall be screened from view of neighboring properties with a fence or vegetation. This screen shall be shown on the Final Site Plan.**
- I. No cars shall be sold on the property.**
- J. The site shall be subject to all DelDOT entrance and roadway requirements.**
- K. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated February 23 and March 9, 2017.)

Janelle Cornell, Director of Planning and Zoning, reported on the Planning and Zoning Commission’s Public Hearing and recommendation of approval.

The Council found that Charles Short was present on behalf of his application and he reported on his automotive repair business (general repair, automotive electrical, and light fabrication) that has been in operation since 2004. He stated that he resides on the property; that the business is currently a side business and he currently works elsewhere full-time; and that in approximately 6 years he hopes to operate his business full-time on this site. Mr. Short stated that he plans to only use approximately 2 acres of the 25 acre site. Mr. Short addressed concerns expressed during the Planning and Zoning Commission’s public hearing.

Questions were raised by Council as to whether or not the Council can limit the Conditional Use to the 2 acres. Mr. Moore stated that he would have to look into possible options.

Public comments were heard.

Steve Cordrey, a neighbor, spoke in support of the application.

Kenny Short, the Applicant’s father, spoke in support of the application.

Iris Yuska, Daniel Yuska, Martha Hawkins, Shirley Kelley, and Kathy Dorsch spoke in opposition to the application. They stated that the use has been operating illegally and they expressed concerns about the environmental impact, the impact on property values, noise, and the need for a landscape buffer. They questioned who will monitor the expansion of the business and questioned the need for 7 bays.

It was noted that Mr. and Mrs. Yuska submitted the following: a petition on behalf of the residents of Indian Summer Village in opposition to the applications, a memo written by Ms. Cornwell (Staff Analysis of the

**Public  
Hearing/  
CU 2068  
(continued)**

application); and a picture of the area.

In regard to the 7 bay structure, Ms. Cornwell stated that she will research the building permit and verify that there are 7 bays. She noted that, if the permit was filed as an agricultural use, it is exempt from Building Code. Mr. Moore stated that he would also research the matter and that he would be able to report back in two weeks.

The Public Hearing was closed and the record was left open for Council and staff comments.

**M 157 17  
Defer  
Action/  
CU 2068**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Conditional Use No. 2068 for two weeks

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU 2069**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WORKOUT STUDIO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21,962 SQUARE FEET, MORE OR LESS" (Conditional Use No. 2069) filed on behalf of Rudolph Joseph Johnson (Tax I.D. No. 335-12.06-58.00) (911 Address: 34001 Clay Road, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on March 9, 2017 at which time the Commission deferred action. On March 23, 2017, the Commission recommended that the application be approved with the following conditions:

- A. The use shall be limited to an exercise / yoga studio within the 800 square feet building shown on the plan submitted during the public hearing.
- B. The Applicant shall submit a Final Site Plan showing all entrance and parking areas.
- C. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
- D. As stated by the Applicant, the hours of operation shall be between 9:00 a.m. and 5:00 p.m., Monday through Friday.
- E. Any security lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- F. The Applicant shall comply with all DelDOT requirements concerning entrance and roadway improvements.
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Public  
Hearing/  
C/U 2069  
(continued)**

**(See the minutes of the Planning and Zoning Commission dated March 9 and 23, 2017.)**

**Janelle Cornwell, Director of Planning and Zoning, read a summary of the Planning and Zoning Commission's Public Hearing and recommendation of approval.**

**The Applicant submitted an Exhibit Booklet which was previously distributed to Council members.**

**The Council found that Robert Gibbs, Attorney, was present with the Applicant, Rudolph Joseph Johnson. They stated that the proposed use for a yoga facility in a 336 square foot building; and that the hours proposed are Monday through Friday from 9:00 a.m. to 5:00 p.m.; that it would be a small use with only up to 5 clients at a time; and that a Traffic Impact Study was not required. Mr. Gibbs commented on the commercial and industrial uses in the surrounding area.**

**Mr. Gibbs submitted an addition to the Exhibit Booklet, Tab 9, which consists of letters of consenting adjacent and nearby property owners. The addition to Tab 9 was information on the area businesses and a map showing the consenting property owners.**

**Mr. Gibbs reviewed the Exhibit Booklet and he stated that the Applicant has no problems with the conditions recommended by the Planning and Zoning Commission.**

**Mr. Cole stated that he would like to see a smaller and non-lit sign than indicated by the conditions recommended by the Planning and Zoning Commission. The Applicant stated that he had no problem with this.**

**Mr. Cole and Mr. Burton commented on the residential character of the area and the need to preserve it.**

**Mr. Gibbs and Mr. Johnson responded to questions from Council. They stated that the businesses in the area include an industrial use across the street. They noted that the proposed use is for an owner occupied type home business, a small yoga studio, and that most of the business is one-on-one, with a maximum of five clients. They also stated that DelDOT has approved the use of the existing entrance. In response to concerns about parking, Mr. Gibbs stated that there is ample space for parking.**

**Mr. Burton stated that he would like to see the parking design. It was noted that the parking design will be shown on the Final Site Plan.**

**There were no public comments.**

**The Public Hearing and public record were closed.**



(continued) **Mr. Burton asked that action be deferred.**

**M 158 17**      **A Motion was made by Mr. Burton, seconded by Mr. Arlett, to defer action on Conditional Use No. 2069 filed on behalf of Rudolph Joseph Johnson.**

**Defer  
Action/  
CU 2069**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Request to  
Prepare  
and Post  
Notices/  
Lewes  
Crossing  
Phase 8  
Expansion**

**John Ashman, Director of Utility Planning, presented a request to prepare and post notices for Lewes Crossing Phase 8 Expansion, West Rehoboth Area of the Sussex County Unified Sanitary Sewer District. Mr. Ashman reported that the expansion was requested by Lewes Crossing Capital Partners LLC for a project known as Lewes Crossing Phase 8; that there is an existing connection available for the parcel, however, a prior phase of Lewes Crossing will provide an alternate connection point for this phase; that the expansion will include Parcel #334-5.00-222.01 and will consist of 19.53 acres, more or less; that the project is proposed for 42 lots and will be responsible for System Connection Charges of \$5,775.00 per EDU based on current rates. A tentative Public Hearing date before the Council is May 9, 2017.**

**M 159 17**      **A Motion was made by Mr. Wilson, seconded by Mr. Cole, that the Engineering Department is authorized to prepare and post notices for the Lewes Crossing Phase 8, Parcel #334-5.00-222.01, Expansion of the Sussex County Unified Sanitary Sewer District, West Rehoboth Area, as presented on April 11, 2017.**

**Authorize  
Posting of  
Notices/  
Lewes  
Crossing  
Phase 8  
Expansion**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Proposed  
Mulberry  
Knoll Area  
of the  
SCUSSD**

**John Ashman, Director of Planning and Zoning, reported on the community public hearing that was held regarding establishing the boundaries for the Proposed Mulberry Knoll Area of the Sussex County Unified Sanitary Sewer District, and presented the recommended final boundaries to take to referendum on May 13, 2017, if approved.**

**M 160 17**      **A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Resolution No. R 010 17 entitled "BOUNDARIES FOR THE PROPOSED MULBERRY KNOLL AREA OF THE SUSSEX COUNTY7 UNIFIED SANITARY SEWER DISTRICT".**

**Adopt  
Resolution  
R 010 17**

**Motion Adopted:      5 Yeas.**



**Administrative Office Building Stair Repairs Project**

Hans Medlarz, County Engineer, updated the Council on the Administration Office Building Stair Repairs Project, a project awarded to BRS Consulting, Inc.; the contract was awarded in the amount of \$59,901.00. Mr. Medlarz presented a Balancing Change Order reducing the contract amount by \$4,120.72 which accounts for removed contingent items, additional work, and added weather related days; thereby lowering the final contract amount to \$55,780.28. The project was declared substantially complete on March 30, 2017.

**M 164 17**

**Approve Change Order and Grant Substantial Completion/ Administrative Office Building Stair Repairs Project**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that Change Order No. 1 for Contract #16-33, Sussex County Administration Office Building Stair Repairs, be approved, decreasing the contract amount by \$4,120.72 for a new total of \$55,780.28; and that Substantial Completion be granted effective March 30, 2017, and any retainage be released in accordance with the documents.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea**

**General Labor & Equipment Contract/ Change Order**

Hans Medlarz, County Engineer, presented a request for a scope modification and associated Change Order No. 3 for General Labor & Equipment Contract, Project #17-01 (Pump Station 210-A), without increase in the overall contract amount. The Change Order does not carry a cost increase in the overall contract amount since work will be deferred to FY18 and thus deleted from the current contract. Mr. Medlarz advised that the work cannot be completed due to the time required to acquire Corps of Engineers permits and associated additional easements. Mr. Medlarz reviewed the work items to be included as part of Change Order No. 3.

**M 165 17**

**Approve Change Order/ General Labor & Equipment Contract**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that Change Order No. 3 for Contract #17-01, FY17 General Labor & Equipment Contract, be approved, which modifies the scope of work to include directional drilling under Chapel Branch and removes the directional drilling under The Ditch in Fenwick Island with no change in the Contract amount.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea**

**Grant Requests**

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

**M 166 17 Councilmanic Grant**      **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to Sussex County Habitat for Humanity for "Rock the Block" Neighborhood Revitalization (Downtown Seaford).**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**M 167 17 Councilmanic Grant**      **A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give \$500.00 (\$250.00 each from Mr. Vincent's and Mr. Arlett's Councilmanic Grant Accounts) to Dunbar Elementary School for the Wellness Committee's Dunbar Dash Track Night fundraiser.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**M 168 17 County-wide Youth Grant**      **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,000.00 from Countywide Youth Grants to Delaware Ducks Unlimited for the 2017 Greenwing Conservation Festival.**

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

**Vote by Roll Call:      Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Abstained; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**M 169 17 Councilmanic Grant**      **A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give \$1,000.00 from Mr. Arlett's Councilmanic Grant Account to the Selbyville Middle School for the Vex Robotics Team's World Competition expenses.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**M 170 17 Councilmanic Grant**      **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to Delaware Devil Dogs Detachment #780 Marine Corps League for 2017 Annual Golf Tournament fundraiser.**

**Motion Adopted:      5 Yeas.**

**M 170 17  
(continued)**      **Vote by Roll Call:**    **Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Council  
Members'  
Comments**

**Council Members' Comments**

**Mr. Arlett requested that an update on scrap tires/dumping be provided in the near future.**

**M 171 17  
Adjourn**      **A Motion was made by Mr. Cole, seconded by Mr. Wilson, to adjourn at 3:31 p.m.**

**Motion Adopted:    5 Yeas.**

**Vote by Roll Call:**    **Mr. Arlett, Yea; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**

**Respectfully submitted,**

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

*{An audio recording of this meeting is available on the County's website.}*