

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 21, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 21, 2023, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
J. Everett Moore, Jr.	County Attorney

**Call to
Order**

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

Mr. Vincent called the meeting to order.

**M 077 23
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to approve the Agenda, as presented.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Minutes

The minutes from February 7, 2023, were approved by consensus.

**Corre-
spondence**

There was no correspondence.

**Public
Comments**

Public comments were heard, and the following people spoke:

Ms. Suzanne Anderheggen spoke about clear cutting destruction of forested areas by Sussex County developers. Ms. Anderheggen urged the Council members to modify the Ordinance around developer tree clearing.

**BBA
Charter
Discussion**

Mr. Lawson reviewed the Bay Beach Association (BBA) Charter. The BBA is an organization representing the Delaware Bay coastal communities in Kent and Sussex counties. The BBA was formed to advocate on behalf of its members to preserve and protect the unique character of the Delaware Bay shoreline.

Mr. Lawson reminded Council that representatives from BBA made a

**BBA
Charter
Discussion
(continued)**

presentation during the January 10th County Council meeting and subsequently, County Council approved an MOU with the BBA during its January 31st meeting.

The BBA Charter codifies the establishment of the organization and outlines its roles and responsibilities. Kent and Sussex Counties along with the Towns of Bowers Beach, Lewes, and Slaughter Beach represent the voting members within the Charter. The BBA's objective is to work to see the implementation of the newly passed WRDA legislation and the specific initiatives designed to assist the Delaware coastal regions. Mr. Lawson reported that Bowers Beach and Slaughter Beach have signed onto the Charter already. In addition, Lewes plans to sign on at a future meeting and Kent County will be considering it at a future meeting.

**M 078 23
Approve
BBA
Charter**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved that the Sussex County Council approves the Bay Beach Association Charter and agrees to join the Association as outlined in the terms of said Charter.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**MOU/State
Family
Courthouse
Parking
Garage**

Mr. Lawson discussed a MOU with the Office of Management and Budget related to the State Family Courthouse Parking Garage MOU for Council's consideration.

Mr. Lawson reported that the MOU endorses conversations that have taken place with State officials dating back several years with the goal of working with the State to construct the new courthouse and garage in downtown Georgetown. Those conversations progressed to actual agreements between the County and the State.

As part of this agreement, in 2021 the Council agreed to sell four (4) parcels to the State on East Pine Street and East Market Street where the courthouse and garage are to be built. Next, the State agreed to sell the JP Annex Property, if the County opts to buy it, when the State has vacated the Annex Building. And last, the State agreed to reserve 100 parking spaces in the new parking garage in return for the County's contribution.

In summary, this MOU outlines the roles and responsibilities for the State and County through the construction and operation of the parking garage. The State will be responsible for the design, construction, and financial management of the parking garage project. The State estimates the cost of the parking garage and associated work to be in the twenty million (\$20.0M) dollars range. The County will contribute one million (\$1.0M) dollars to the State near the beginning of construction and an additional one

**MOU/State
Family
Courthouse
Parking
Garage
(continued)**

million (\$1.0M) dollars to the State upon substantial completion. In return, the State will provide the County with 100 dedicated parking spaces in the garage. In addition, once the garage is in use, the County will agree to contribute one-quarter (25%) of the on-going overhead of the garage and towards the future capital improvement fund. The maintenance and improvement fund agreements will be forth coming upon completion of the garage.

**M 079 23
Approve
MOU/State
Family
Courthouse
Parking
Garage**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley that be it moved that the Sussex County Council approves the Memorandum of Understanding with the State of Delaware Office of Management and Budget as presented and for the purposes of establishing the roles and responsibilities related to the future construction operations of the State parking garage and the County's contribution of \$2M for the same as specified in the terms of the MOU.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Adminis-
trator's
Report**

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

1. DelDOT 2025-2030 Capital Transportation Program

Sussex County invites the public to offer suggestions for the upcoming 2025-2030 Capital Transportation Program request, which the County Council will submit to the Delaware Department of Transportation this spring. Residents and property owners with ideas for improving local roads, pedestrian walkways, public transportation, and other related infrastructure and services can log onto the County's website to submit their suggestions.

Please visit www.sussexcountyde.gov and click the 'Sussex County wants your transportation ideas' announcement on the main page to fill out a suggestion form.

Submissions will be accepted through March 20. County staff will review all suggestions and forward those comments to DelDOT as part of the County's annual request for funding and prioritization of transportation projects here in Sussex County.

2. Delaware State Police Activity Report

The Delaware State police year-to-date activity report for January 2023 is attached listing the number of violent crime and property

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

crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 191 troopers assigned to Sussex County for the month of January.

3. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Osprey Point – Phase 2B (Construction Record) and Millville By The Sea – Village 7 Schooner's Cove received Substantial Completion February 14th and February 16th respectively.

4. Thelma Dorey Monroe

It is with great sadness that we inform you that former Clerk of the Peace, Thelma Monroe, passed away on Thursday, February 9, 2023. Ms. Monroe served 10 months as Sussex County's Clerk of the Peace, earning an appointment from then Governor Ruth Ann Minner in March 2004. We would like to extend our condolences to the Monroe family.

5. Judith "Judy" Dickerson

It is with great sadness that we inform you that pensioner, Judith "Judy" Dickerson, passed away on Sunday, February 12, 2023. Mrs. Dickerson began her career with Sussex County in July 1973 where she worked until December 2008 for a total of 35 years of service. Her last position with the County was Clerk III in the Recorder of Deeds. We would like to extend our condolences to the Dickerson family.

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

**First
Quarter
Employee
Recognition**

Karen Brewington, Human Resources Director presented the first quarter employee recognition awards. Mrs. Brewington reported that there were 28 submissions during the quarter. The committee selected Donald Edwards, Emergency Communication Specialist 1, Mackenzie Murphy, Paramedic 1 and Donald Weber, Paramedic 3 for this quarter.

**Project 22-
01/CO No. 1**

Hans Medlarz, County Engineer presented Change Order No. 1 for FY 2022 General Labor & Equipment Contract, Project 22-01 for Council's consideration. Mr. Medlarz reported that the main cost driver was the work in Oak Crest Farms & Chapel Green community system conversions. Mr. Medlarz shared that some of the work will carry over into FY24.

M 080 23 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved**
Approve CO **based upon the recommendation of the Sussex County Engineering**
No. 1/ **Department, that FY23 Change Order No. 1 of George & Lynch’s Bid**
Project 22- **Package A for Contract # 22-01 FY22 General Labor & Equipment be**
01 **approved increasing the contract by \$2,400,000.00.**

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

FY23 **Hans Medlarz, County Engineer presented FY23 contract for delivery seed**
Delivery **and chemical, project M23-06. Mr. Medlarz reported that the contract was**
Seed & **advertised and there was one bid received from Growmark FS, LLC. It is**
Chemical/ **believed that the prices that were received are competitive to what a**
Project **commercial farmer can purchase the same service and seed. In addition, the**
M23-06 **contract included chemicals that are used based on the pests and the**
 conditions of the crop.

M 081 23 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that be it**
Approve **moved based upon the recommendation of the Sussex County Engineering**
FY23 **Department that Contract M23-06, Delivery Seed and Chemical be**
Delivery **awarded to Growmark FS, LLC for bid schedules A & B in the total not to**
Seed & **exceed amount of \$420,845.50 per year for FY23 and FY24.**
Chemical
Project

Motion Adopted: 4 Yeas, 1 Nay

Vote by Roll Call: Mrs. Green, Nay; Mr. Schaeffer, Yea;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

Old **Under Old Business, Jamie Whitehouse, Planning and Zoning Director**
Business/ **presented a Proposed Ordinance entitled “AN ORDINANCE TO AMEND**
CZ1969 **THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM**
 AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR
 MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF
 LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX
 COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS” filed on
 behalf of Ron Sutton. The County Council held a Public Hearing on the
 application at its meeting of January 10, 2023. At the conclusion of the
 Public Hearing, a motion was made and passed to defer action on the
 application for further consideration. The application was discussed at the
 County Council meeting of January 24, 2023, and a motion was made and
 passed to defer action on the application for further consideration.

M 082 23 **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt**
Adopt **Ordinance No. 2902 entitled “AN ORDINANCE TO AMEND THE**
Ordinance **COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN**

**No. 2902/
CZ1969**

AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS” for the reasons given by the Planning and Zoning Commission as follows:

- 1. This application seeks a Change in Zone from AR-1 to MR. The purpose of the MR zone is to provide housing in an area which is expected to become urban in character and where central water and sewer are available.**
- 2. The stated purpose of the MR District is satisfied for this site. Both central water and central sewer will be available.**
- 3. The proposed MR Zoning meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County in an appropriate location.**
- 4. The property is in the vicinity of a commercially zoned parcel and there are GR-zoned properties in the general area. In the case of the C-1 Zoning, a wide variety of commercial uses are permitted, and that District also allows residential development of up to 12 units an acre. This rezoning is consistent with other zoning and land uses in the area.**
- 5. The site is located within the Coastal Area according to the Sussex County Comprehensive Plan. MR Zoning is appropriate in this Area according to the Plan.**
- 6. The Comprehensive Plan suggests that higher densities such as those permitted in the MR District can be appropriate where there is water and sewer available, there are appropriate roadways to handle the density, and there are nearby commercial or employment centers. All of those factors are satisfied with regard to this application.**
- 7. There is a letter in support of this Application in the record from a neighboring property owner stating that the change to MR zoning is appropriate for this parcel of land.**
- 8. For all of these reasons, MR zoning is appropriate for this site.**

Motion Adopted: 4 Yeas, 1 Nay

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieleley, Nay;
Mr. Vincent, Yea**

**Old
Business/
CU2339**

Under Old Business, Jamie Whitehouse, Planning and Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (60 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS” filed on behalf of Ron Sutton.

**Old
Business/
CU2339
(continued)**

The County Council held a Public Hearing on the application at its meeting of January 10, 2023. At the conclusion of the Public Hearing, a motion was made and passed to defer action on the application for further consideration. The application was discussed at the County Council meeting of January 24, 2023, and a motion was made and passed to defer action on the application for further consideration.

**M 083 23
Adopt
Ordinance
No. 2903/
CU2339/
Amend
Condition A**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to amend Condition A from reading “shall have 60 units” to state “shall have 57 units” and to Adopt Ordinance No. 2903 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM RESIDENTIAL DISTRICT FOR MULTI-FAMILY (60 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.45 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows and as amended:

- 1. This application seeks the approval of 57 multi-family structures on approximately 14.45 acres. The units will be duplex-style units with individual lots.**
- 2. The property is in an area where a variety of development has generally occurred. There is commercially zoned land across the street and there are properties with GR zoning and townhomes in the area.**
- 3. The site is in the Coastal Area according to the Sussex County Comprehensive Plan. This type of development is appropriate in this Area according to the Plan, which states that “a range of housing types” are acceptable here, including medium and high densities when a site is near commercial areas, is served by central water and sewer, where the use is in keeping with the character of the area and other similar factors. These types of considerations exist with regard to this site.**
- 4. An Environmental Assessment and Public Facility Report” was submitted by the Applicant in support of this project.**
- 5. Approximately 5.25 acres or 36.3% of the site will remain as open space, which exceeds the minimum Code requirement for this project.**
- 6. The proposed development will not have an adverse impact on the neighboring properties or community.**
- 7. The project will not have an adverse impact on traffic or roadways.**
- 8. The development will be served by central sewer provided by Sussex County.**
- 9. The development will be served by central water.**
- 10. This recommendation is subject to the following conditions:**
 - a. The maximum number of residential units shall be 57.**
 - b. The developer and then the condominium association shall be responsible for the perpetual maintenance of the development roadways, buffers, stormwater management facilities, erosion, and**

**M 083 23
Adopt
Ordinance
No. 2903/
CU2339/
Amend
Condition A**

- sedimentation control facilities, and other common areas.
- c. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
 - d. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
 - e. The project shall be served by central water to provide drinking water and fire protection.
 - f. There shall be a vegetated or forested buffer of at least 20 feet in width along the perimeter of this development adjacent to lands of other ownership and 30 feet in width along the adjacent Agricultural property that is currently farmed. This buffer shall utilize existing forest or similar vegetation if it exists in the buffer area. Where trees currently exist in the buffer area, stump removal or construction activities that disturb the existing grade of the area within the buffer shall be prohibited. All silt fencing shall be located along the interior limit of the buffer area (the edge of the buffer nearest the interior development) and the Final Site Plan shall identify the "Limit of Disturbance" to prevent disturbance of the buffer area.
 - g. Construction activities, including site work and deliveries, shall only occur between 7:30 a.m. and 7:00 p.m. Monday through Friday, and between 8:00 a.m. and 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays. A 24-inch by 36-inch "NOTICE" sign in English and Spanish confirming these hours shall be prominently displayed at all entrances to the site during construction.
 - h. Street naming and addressing shall be subject to the review and approval of the County Geographic Information Office.
 - i. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
 - j. The Amenities on this site shall include a pool and bath house. These amenities shall be constructed and open to use by the residents of this community on or before the issuance of the 30th residential Building Permit.
 - k. Any streetlights shall be downward screened so that they do not shine on neighboring properties or roadways.
 - l. The interior street design shall meet or exceed Sussex County's Street design requirements, and there shall be sidewalks on at least one side of all streets.
 - m. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop shall be shown on the Final Site Plan
 - n. In addition to the main entrance onto Central Avenue, there shall be a second point of vehicular access to Central Avenue for emergency use only. The location and details of this emergency access shall be

**M 083 23
Adopt
Ordinance
No. 2903/
CU2339/
Amend
Condition A**

- shown on the Final Site Plan.
- o. The Final Site Plan shall include a Grading Plan for the site. No building permits shall be issued until an individual lot grading plan has been supplied to and approved by Sussex County. No certificate of occupancy shall be issued until a grading certificate is submitted to the Building Code Department demonstrating general conformity with the individual site grading plan.**
 - p. Failure to comply with any of these conditions may be grounds for termination of the Conditional Use approval.**
 - q. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

**Grant
Requests**

Mrs. Roth presented grant requests for Council's consideration.

Mr. Schaeffer requested that the grant request for Paul Kare Inc. be deferred until next week.

**M 084 23
Ocean View
Historical
Society**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give \$2,000 (\$1,000 from Mr. Hudson's Councilmanic Grant Account and \$1,000 from Mr. Rieley's Councilmanic Grant Account) to Ocean View Historical Society for their Tunnell West Preservation Project.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 085 23
Ocean
Waves Quilt
Guild Inc.**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to give \$500 (\$500 from Mr. Schaeffer's Councilmanic Grant Account) to Ocean Waves Quilt Guild Inc. for The Fabric of Life Quilt Show.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 086 23
Developing
Artist
Collabora-
tion**

A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to give \$1,000 (\$1,000 from Mr. Schaeffer's Councilmanic Grant Account) to Developing Artist Collaboration for a HVAC emergency.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

M 087 23 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$4,000**
Tether **(\$500 from each Councilmanic Grant Account and \$1,500 from the**
Foundation **Countywide Youth Grant Account) to the Tether Foundation for Camp**
 Abilities Delaware.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
 Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Vincent, Yea

Introduction **Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE**
of Proposed **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**
Ordinances **AGRICULTURAL RESIDENTIAL DISTRICT FOR A 20.23-ACRE**
 SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND
 LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX
 COUNTY, CONTAINING 79.59 ACRES, MORE OR LESS” filed on
 behalf of Taylor Mill Road Solar 1, LLC.

Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE
TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL
RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED
ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND
BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY,
CONTAINING 17.04 ACRES, MORE OR LESS” filed on behalf of
Consolidated Edison Development, Inc.

Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE
TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM
ON A 19.61 ACRE, PORTION, MORE OR LESS, OF A CERTAIN
PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK
HUNDRED, SUSSEX COUNTY, CONTAINING 74.96 ACRES, MORE
OR LESS” filed on behalf of Consolidated Edison Development, Inc.

Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE
TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL
RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL
DISTRICT FOR AUTO STORAGE TO BE LOCATED ON A CERTAIN
PARCEL OF LAND LYING AND BEING IN CEDAR CREEK
HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRE, MORE OR
LESS” filed on behalf of Vance Daniels.

Mr. Schaeffer introduced a Proposed Ordinance entitled “AN
ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF
SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL
DISTRICT TO AC-3 HEAVY COMMERCIAL DISTRICT FOR A
PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN
BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 64.85

ACRES, MORE OR LESS” filed on behalf of Ocean One Holdings, LLC.

**Council
Member
Comments**

The Proposed Ordinance will be advertised for Public Hearings.

There were no Council member comments.

**M 088 23
Go Into
Executive
Session**

At 10:40 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to recess the Regular Session, and go into Executive Session for the purpose of discussing matters relating to land acquisition.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Executive
Session**

At 10:50 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to land acquisition. The Executive Session concluded at 11:04 a.m.

**M 089 23
Reconvene**

At 11:06 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to come out of Executive Session and reconvene the Regular Session.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

E/S Action

There was no action on Executive Session matters.

**M 090 23
Recess**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to recess until 1:30 p.m. Public Hearings.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 091 23
Reconvene**

At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to reconvene.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Rules

Mr. Moore read the rules and procedures for public hearings.

**Public
Hearing/
CU2342**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 27.5 ACRES, MORE OR LESS” (property lying on the west side of Elks Road [Rt. 46] approximately 0.50 mile west of the intersection of Elks Road [Rt. 46] and Sussex Highway [Rt. 13] (911 Address: N/A) (Tax Parcel: 331-1.00-15.01 [p/o]) filed on behalf of Turning Point Energy – TPE DE SU07, LLC

The Planning & Zoning Commission held a Public Hearing on the application on December 15, 2022. At the meeting of January 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated and subject to the 10 recommended conditions as outlined within the motion.

(See the minutes of the Planning & Zoning Commission dated December 12, 2022 and January 12, 2023.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Mr. Jon Falkowski spoke on behalf of the Application; that he is a civil engineer with Becker Morgan Group; that also present was Mr. Michael Rieman with Becker Morgan Group, Mr. John Tracy, Legal Counsel and Mr. Jordan Belknap, with Turning Point Energy as the Applicant; that the property is located within Seaford, being just south of Bridgeville; that the property is located off Cannon Rd., along Elks Rd.; that the property is zoned AR-1; that the property is existing agricultural use; that the property is approximately 108 acre parcel; that only 27.5 acres, to the north of the 108 acres is being requested for Conditional Use; that there are a few residential houses to the south of the project that have existing access by a gravel road; that the gravel road will remain in place.

The Council found that Mr. Jordan Belknap spoke on behalf of the Application; that he is the Director of Development for Turning Point Energy; the Turning Point Energy is an energy developer; that they achieve this by developing community solar projects; that community solar is a model where a solar farm can be constructed, which allow residents, businesses and municipalities to sign up as subscribers to a solar farm; that the project brings environmental value because it produces clean and renewable energy; that the project brings community value because for every project that is done, they work with a local community and find charitable organizations who are doing good work in that community and make a contribution to those organizations; that community solar was

**Public
Hearing/
CU2342
(continued)**

enabled in Delaware by the passage of Senate Bill 2 in 2021; that it was signed into State law; that it allows project of this type to be community solar energy facilities; that it allows people to subscribe to the facility for credits to save on their electric bill; that community solar is especially appealing to low incoming housing, condominiums, apartments, and residences that do not have a suitable roof for the placement of solar panels; that they can develop an effective solar farm, at an effective scale, at an effective cost, which allow to pass the savings on to the residents of Sussex County, who are customers of Delmarva Power; that subscribers pay for their subscription; that the subscription generates a credit which is received on the subscribers electric bill; that the amount, size and cost of the subscription is modeled with the energy consumption that the subscriber has at their residence or business; that cost of the credit is of greater value than the subscription; that the project provides local construction jobs; that the project will not create any long-term increase in traffic; that the arrays sit quietly; that the arrays are monitored remotely; that there is a four-to-six-month construction window that will create increased traffic; that after the construction window passes, the property may see a vehicle every few months for the property and/or equipment maintenance; that they are proposing to use a low growth pollinator mix; that the low growth pollinator mix will allow for a nice environment for small animals and bees; that the distributed energy eases the burden on the transmission system; that the must be a customer of Delmarva Power and live in the State of Delaware to subscribe the system; that it is an environmentally friendly facility.

The Council found that Mr. Jon Falkowski spoke on behalf of the Application; that there will be no increase to traffic; that it is a renewable energy source; that the project will create no odors, dust, gas, smoke or fumes; that there will be little to no noise from the project inverters; that they did perform a glare study for the project; that the glare study confirmed there were no glare impacts to the neighbors; that the performed glare study was very conservative as the study did not account for any buffering or landscaping for the property; that the project proposes a pollinator mix be planted; that they will seek sediment and stormwater approval from Sussex Conservation District; that the change in land cover from the existing agricultural use to the pollinator mix will help the reduce of runoff; that they propose seven foot fencing be place around the entire perimeter of the array; that the fencing will have gates and Knox Box for emergency personnel; that a community outreach meeting was held for the project; that project mailers were sent out to all residents listed on the Sussex County mailing list for the public hearing; that Mr. Belknap did attend the community outreach meeting on December 7, 2022, at the Bridgeville Public Library; that they did submit their proposed decommissioning plan; that at the end of the solar arrays useful life, the arrays will be decommissioned; that the property will then return to its existing agricultural use and they did submit Findings of Fact and proposed conditions for the project; that the Planning Commission did recommend approval with ten conditions; that there are no objections to the conditions;

**Public
Hearing/
CU2342
(continued)**

that it is a 25 year lease; that the proposed use is a public utility under the Code; that they believe it meets the purposes of a Conditional Use as it is of a public character, as well as desirable for the general convenience and welfare of the residents of Sussex County; that the proposed use does meet the goals of the Comprehensive Plan, which encourages the use of renewable energy and the proposed use does not have any impact to adjacent neighbors due to the proffered buffering, fencing, minimal noise or impact on traffic.

Mr. Rieley questioned if the property owners were aware that the property taxes would increase and be assessed at a higher tax rate prior to the completion of the project.

Mr. Rieley questioned the materials that the solar panels are constructed of. It was explained that they are made of the same materials that the roof top units are made of.

Public comments were heard.

Mrs. Rosemary Everton spoke in favor of the application; that she is one of the landowners; that the farm has been in the family for several years; that she is excited about this project; that the land is currently farmed; that the runoff from the farm runs into the pond that runs into the Nanticoke which is a concern of hers; that this will provide an income but there is not a concern about the runoff going into the pond; that she has done a lot of research for this project.

The Public Hearing and public record were closed.

**M 092 23
Adopt
Ordinance
No. 2904/
CU2342**

A Motion was made by Mrs. Green, seconded by Mr. Rieley to Adopt Ordinance No. 2904 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 27.5 ACRES, MORE OR LESS" for the reasons and conditions as provided by the Planning and Zoning Commission as follows:

1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.
2. This is an adaptive use of farmland that will preserve it from more intensive development. The solar farm will be located on 27.5 acres of a larger 107.75-acre farm.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with

**M 092 23
Adopt
Ordinance
No. 2904/
CU2342
(continued)**

- lower power costs.
4. **With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties and there are no homes in close proximity to this site. In addition, there is information and data in the record from an appraiser that solar facilities do not have a negative impact upon adjacent property values.**
 5. **The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
 6. **Based upon the testimony in the record, it is evident that no significant noise, dust, or odor will be generated by the facility.**
 7. **There will be a buffer of existing vegetation along the east and west sides of this site to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.**
 8. **The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
 9. **This recommendation is subject to the following conditions:**
 - a. **The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.**
 - b. **Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - c. **One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.**
 - d. **The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.**
 - e. **Any transformers or similar equipment, or structures shall be centrally located on the site away from any nearby residential uses. The location of these structures and equipment shall be shown on the Final Site Plan.**
 - f. **The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.**
 - g. **Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**
 - h. **There shall be a vegetated buffer of existing vegetation along the eastern and western sides of the solar area. These buffer areas shall be clearly shown on the Final Site Plan. These buffers shall screen solar arrays while allowing the solar arrays to function properly.**
 - i. **The Final Site Plan shall identify a Decommissioning Plan that**

**M 092 23
Adopt
Ordinance
No. 2904/
CU2342
(continued)**

includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.

- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2343**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 25.00 ACRES, MORE OR LESS” (property lying on the west side of Gravel Hill Road [S.C.R. 248] approximately 0.37 mile north of the intersection of Gravel Hill Road (S.C.R. 248) and Lewes Georgetown Highway [Rt. 9] (911 Address: N/A) (Tax Parcel: 135-11.00-48.00 [p/o]) filed on behalf of Turning Point Energy – TPE DE SU163, LLC

The Planning & Zoning Commission held a Public Hearing on the application on December 15, 2022. At the meeting of January 12, 2023, the Planning & Zoning Commission recommended approval of the application, for the 8 reasons stated and subject to the 10 recommended conditions as outlined within the motion.

(See the minutes of the Planning & Zoning Commission dated December 15, 2022, and January 12, 2023.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Mr. Jon Falkowski spoke on behalf of the Application; that he is a civil engineer with Becker Morgan Group; that also present was Mr. Jordan Belknap, with Turning Point Energy as the Applicant TPE DE SU163; that the site is located within Georgetown; that the property is currently being used for agricultural propose within the AR-1 (Agricultural Residential) Zoning District); that the property consist of 39.5 acres; that the area requested for the Conditional Use is located to the south, consisting of 25 acres; that the solar array is a tracker ground mounted system; that the project does propose an extensive landscape buffer as it is adjacent to residents surrounding the project; that they propose a 25-ft. wide landscape buffer, consisting of 12 deciduous trees and 15 scrubs per 100 linear feet; that the landscape buffer will shield from the residents located along Gravel Hill Rd.; that they also propose a landscape buffer along the northside perimeter, as they are aware that construction

**Public
Hearing/
CU2343
(continued)**

recently began for Azalea Woods; that Azalea Woods is a 66 lot subdivision that is currently underway; that the project will create no increase in traffic; that the project will create no odors, dust, gas, smoke or fumes; that there will be little to no noise from the project inverters; that they did perform a glare study for the project; that the project proposes a pollinator mix be planted; that they will seek sediment and stormwater approval from Sussex Conservation District; that the change in land cover from the existing agricultural use to the pollinator mix will help the reduce of runoff; that they propose a seven to eight foot chain link fence, with necessary gates and Knox Box for emergency personnel; that a community outreach meeting was held for the project; that project mailers were sent out to all residents listed on the Sussex County mailing list for the public hearing; that Mr. Belknap did attend the community outreach meeting on December 5, 2022, at the Cheer Center; that they did submit their proposed decommissioning plan; that at the end of the solar arrays useful life of 25 years, the arrays will be decommissioned; that the property will then return to its existing agricultural use and they did submit Findings of Fact and proposed conditions for the project; that the proposed use is a public utility under the Code; that they believe it meets the purposes of a Conditional Use as it is of a public character, as well as desirable for the general convenience and welfare of the residents of Sussex County; that the proposed use does meet the goals of the Comprehensive Plan, which encourages the use of renewable energy and the proposed use does not have any impact to adjacent neighbors due to the proffered buffering, fencing, minimal noise or impact on traffic.

The Council found that Mr. Jordan Belknap spoke on behalf of the Application; that he is the Director of Development for Turning Point Energy; the Turning Point Energy is an energy developer; that they achieve this by developing community solar projects; that community solar is a model where a solar farm can be constructed, which allow residents, businesses and municipalities to sign up as subscribers to a solar farm; that the project brings environmental value because it produces clean and renewable energy; that the project brings community value because for every project that is done, they work with a local community and find charitable organizations who are doing good work in that community and make a contribution to those organizations; that community solar was enabled in Delaware by the passage of Senate Bill 2 in 2021; that it was signed into State law; that it allows project of this type to be community solar energy facilities; that it allows people to subscribe to the facility for credits to save on their electric bill; that community solar is especially appealing to low incoming housing, condominiums, apartments, and residences that do not have a suitable roof for the placement of solar panels; that they can develop an effective solar farm, at an effective scale, at an effective cost, which allow to pass the savings on to the residents of Sussex County, who are customers of Delmarva Power; that subscribers pay for their subscription; that the subscription generates a credit which is received on the subscribers electric bill; that the amount, size and cost of the subscription is modeled with the energy consumption that the subscriber

**Public
Hearing/
CU2343
(continued)**

has at their residence or business; that cost of the credit is of greater value than the subscription; that the project provides local construction jobs; that that the project will not create any long-term increase in traffic; that the arrays sit quietly; that the arrays are monitored remotely; that there is a four-to-six-month construction window that will create increased traffic; that after the construction window passes, the property may see a vehicle every few months for the property and/or equipment maintenance; that they are proposing to use a low growth pollinator mix; that the low growth pollinator mix will allow for a nice environment for small animals and bees; that the distributed energy eases the burden on the transmission system; that the must be a customer of Delmarva Power and live in the State of Delaware to subscribe the system; that it is an environmentally friendly facility.

Public comments were heard.

Mr. Keith Tabor spoke in favor of the application; that he lives along Gravel Hill Road; that he believes this is a great idea; that he endorses the project.

Mr. Aaron Worland spoke in favor of the application; that he is the landowners; that he has been greatly informed about the project; that he believes that this is a great idea; that he believes that this is better than more development.

A gentleman questioned where the fence would be located; that it goes closer to the array; that it will be located on the inside.

Ms. Eul Lee questioned if there is any use for the land under the solar panels; that she questioned if there could be free range chickens under the solar panels.

The Public Hearing and public record were closed.

**M 093 23
Adopt
Ordinance
No. 2905/
CU2343**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2905 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 25.00 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development. It will be located on a part of a larger 41.08-**

**M 093 23
Adopt
Ordinance
No. 2905/
CU2343
(continued)**

- acre farm.
3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.
 4. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties. In addition, there is information and data in the record from an appraiser that solar facilities do not have a negative impact upon adjacent property values.
 5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
 6. Based upon the testimony in the record, it is evident that no significant noise, dust, or odor will be generated by the facility.
 7. There will be a 25-foot-wide landscaped buffer to screen the view of the solar farm from the nearby residential properties while allowing the solar arrays to function properly.
 8. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
 9. This recommendation is subject to the following conditions:
 - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.
 - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.
 - d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.
 - e. Any transformers or similar equipment or structures shall be centrally located on the site away from any nearby residential uses. The location of these structures and equipment shall be shown on the Final Site Plan.
 - f. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.
 - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.
 - h. There shall be a vegetated buffer that is at least 25 feet wide planted with deciduous and evergreen trees and shrubs around the perimeter

**M 093 23
Adopt
Ordinance
No. 2905/
CU2343**

of the solar arrays wherever there is not an existing vegetated buffer. These buffers shall screen solar arrays while allowing the solar arrays to function properly. This buffer area, with specifications about the type and location of the plantings, shall be shown on the Final Site Plan.

- i. The Final Site Plan shall identify a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU2344**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 35-ACRE SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 35.58 ACRES, MORE OR LESS” (property lying on both the east and west sides of East Trap Pond Road [S.C.R. 62], approximately 0.4 mile north of Substation Road [S.C.R. 518], with solar panels to be located on the east side of East Trap Pond Road [S.C.R. 62]) (911 Address: N/A) (Tax Parcel: 135-22.00-23.00 [p/o])

The Planning & Zoning Commission held a Public Hearing on the application on December 15, 2022. At the meeting of January 12, 2023, the Planning & Zoning Commission recommended approval of the application for the 9 reasons stated and subject to the 10 recommended conditions as outlined.

(See the minutes of the Planning & Zoning Commission dated December 15, 2022, and January 12, 2023.)

Mr. Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Mr. Jon Falkowski spoke on behalf of the Application; that he is a civil engineer with Becker Morgan Group; that also present was Mr. Jordan Belknap, with Turning Point Energy as the Applicant TPE DE SU113; that the site is located on the southside of Georgetown, along East Trap Pond Rd.; that the property is currently being use for agricultural purposes; that the site is located within the AR-1 (Agricultural Residential) Zoning District; that the property is 35.6 acres; that they are asking for the entire 35.6 acres to be granted a Conditional

**Public
Hearing/
CU2344
(continued)**

Use; that they propose a 25-ft. wide landscape buffer, consisting of 12 deciduous trees and 15 scrubs per 100 linear feet, located on the north, east and west perimeter of the property; that there is natural vegetation located to the south of the property; that there is a solar array located to the south of the property, which is owned by Delaware Electric Coop; that the project will create no increase in traffic; that the project will create no odors, dust, gas, smoke or fumes; that they did perform a glare study for the project; that the project proposes a pollinator mix be planted; that they will seek sediment and stormwater approval from Sussex Conservation District; that the change in land cover from the existing agricultural use to the pollinator mix will help the reduce of runoff; that they propose a seven to eight foot chain link fence, with necessary gates, access points and a Knox Box for emergency personnel; ; that a community outreach meetings was held for the project; that project mailers were sent out to all residents listed on the Sussex County mailing list for the public hearing; that Mr. Belknap did attend the community outreach meeting on December 5, 2022, at the Cheer Center; that they did submit their proposed decommissioning plan; that at the end of the solar arrays useful life of 25 years, the arrays will be decommissioned; that the property will then return to its existing agricultural use and they did submit Findings of Fact and proposed conditions for the project; that the proposed use is a public utility under the Code; that they believe it meets the purposes of a Conditional Use as it is of a public character, as well as desirable for the general convenience and welfare of the residents of Sussex County; that the proposed use does meet the goals of the Comprehensive Plan, which encourages the use of renewable energy and the proposed use does not have any impact to adjacent neighbors due to the proffered buffering, fencing, minimal noise or impact on traffic.

The Council found that Mr. Jordan Belknap spoke on behalf of the Application; that he is the Director of Development for Turning Point Energy; the Turning Point Energy is an energy developer; that they achieve this by developing community solar projects; that community solar is a model where a solar farm can be constructed, which allow residents, businesses and municipalities to sign up as subscribers to a solar farm; that the project brings environmental value because it produces clean and renewable energy; that the project brings community value because for every project that is done, they work with a local community and find charitable organizations who are doing good work in that community and make a contribution to those organizations; that community solar was enabled in Delaware by the passage of Senate Bill 2 in 2021; that it was signed into State law; that it allows project of this type to be community solar energy facilities; that it allows people to subscribe to the facility for credits to save on their electric bill; that community solar is especially appealing to low incoming housing, condominiums, apartments, and residences that do not have a suitable roof for the placement of solar panels; that they can develop an effective solar farm, at an effective scale, at an effective cost, which allow to pass the savings on to the residents of Sussex County, who are customers of Delmarva Power; that subscribers pay for

**Public
Hearing/
CU2344
(continued)**

their subscription; that the subscription generates a credit which is received on the subscribers electric bill; that the amount, size and cost of the subscription is modeled with the energy consumption that the subscriber has at their residence or business; that cost of the credit is of greater value than the subscription; that the project provides local construction jobs; that that the project will not create any long-term increase in traffic; that the arrays sit quietly; that the arrays are monitored remotely; that there is a four-to-six-month construction window that will create increased traffic; that after the construction window passes, the property may see a vehicle every few months for the property and/or equipment maintenance; that they are proposing to use a low growth pollinator mix; that the low growth pollinator mix will allow for a nice environment for small animals and bees; that the distributed energy eases the burden on the transmission system; that the must be a customer of Delmarva Power and live in the State of Delaware to subscribe the system; that it is an environmentally friendly facility; that the Planning Commission recommended approval with ten conditions; that there are no objections to the conditions.

There were no public comments.

The Public Hearing and public record were closed.

**M 094 23
Adopt
Ordinance
No. 2906/
CU2344**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2906 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 35-ACRE SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 35.58 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning and Zoning Commission as follows:

- 1. The proposed facility is a public utility use under the Sussex County Zoning Code, and it meets the purposes of a Conditional Use because it has a public or semi-public character that is essential and desirable for the general convenience and welfare of Sussex County residents.**
- 2. This is an adaptive use of farmland that will preserve it from more intensive development.**
- 3. The proposed facility promotes Goal 7.3 of the Sussex County Comprehensive Plan which encourages the use of renewable energy options such as solar farms. There was testimony that this solar farm will benefit residential, business, and municipal subscribers with lower power costs.**
- 4. This site is immediately adjacent to an existing solar farm. This is an appropriate location for an additional solar facility.**
- 5. With the conditions imposed in this recommendation, the proposed use will not have any adverse impact on the neighboring or adjacent properties. In addition, there was information and data in the record from an appraiser that solar facilities do not have a negative impact upon adjacent property values.**

**M 094 23
Adopt
Ordinance
No. 2906/
CU2344
(continued)**

- 6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.**
- 7. Based upon the testimony in the record, it is evident that no significant noise, dust, or odor will be generated by the facility.**
- 8. There will be a buffer along the western, northern, and eastern boundaries of the site (basically everywhere but the common boundary of this site with the existing solar farm to the south) to screen the view of the solar farm from the nearby properties while allowing the solar arrays to function properly.**
- 9. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.**
- 10. This recommendation is subject to the following conditions:**
 - a. The use shall be for a ground-mounted solar farm. No other types of electric generation shall be permitted at the site.**
 - b. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - c. One unlighted sign, not to exceed 32 square feet in size, shall be permitted. The sign shall identify the operator of the solar farm and shall provide contact information in case of emergency.**
 - d. The site shall be secured by fencing with a gate with a “Knox Box” or similar device to accommodate emergency access by the local fire company or other emergency responders. The fence line shall be shown on the Final Site Plan.**
 - e. Any transformers or similar equipment or structures shall be centrally located on the site away from any nearby residential uses. The location of these structures and equipment shall be shown on the Final Site Plan.**
 - f. The entire site, including the area outside the fence, shall be maintained so that it does not become overgrown.**
 - g. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated using Best Management Practices.**
 - h. There shall be a vegetated buffer along the western, northern, and eastern boundaries of the site (basically everywhere but the common boundary of this site with the existing solar farm to the south) that is at least 25 feet wide and planted with deciduous and evergreen trees and shrubs wherever there is not existing similar vegetation in the buffer area. These buffers shall screen solar arrays while allowing the solar arrays to function properly.**
 - i. The Final Site Plan shall identify a Decommissioning Plan that includes a financial security to ensure that funds are available for decommissioning and removal of the solar farm in its entirety throughout the life of the Conditional Use.**

**M 094 23
Adopt
Ordinance
No. 2906/
CU2344**

**j. The Final Site Plan shall be subject to the review and approval of the
Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 095 23
Adjourn**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to adjourn at
2:17 p.m.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

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