

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 6, 2018**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 6, 2018, 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 080 18  
Approve  
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, 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**

**Minutes**

The minutes of January 30, 2018 were approved by consent.

**Public  
Comments**

**Public Comments**

Paul Reiger raised questions about setbacks for private/public stables, feed lots, etc. Mr. Reiger also commented on the agenda item on this date relating to various County Code updates.

Dan Kramer commented on information read into the record and questioned why it is not available on the internet. Mr. Kramer also commented on and raised questions on Woodbridge getting “99 chicks”.

Bill Andrew, President and Chief Executive Officer of the Delaware Electric Cooperative (DEC), presented a check in the amount of \$9,504.93 to the Sussex County Council representing a capital credit allocation.

**M 081 18**

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

**M 081 18  
Approve  
Consent  
Agenda  
Items  
(continued)**

1. **Wastewater Agreement No. 387-2  
Sussex County Project No. 81-04  
Oak Creek – Phase 2 (aka Sawgrass North)  
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**
2. **Wastewater Agreement No. 387-3  
Sussex County Project No. 81-04  
Oak Creek – Phase 3 (aka Sawgrass North)  
West Rehoboth Expansion of the Dewey 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**

**Caroling  
on The  
Circle  
Food  
Drive**

**Mr. Lawson announced that 27,772 food items were collected during the Caroling on The Circle Food Drive held in December 2017. The Council recognized participants who helped in this effort. Mr. Lawson reported that the food items were distributed to various food pantries throughout Sussex County.**

**Adminis-  
trator's  
Report**

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

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

**The Advisory Committee on Aging & Adults with Physical Disabilities Conference Planning Subcommittee will meet on Monday, February 12<sup>th</sup>, at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. A copy of the agenda is attached.**

**2. Council Meeting Schedule**

**A reminder that Council will not meet on February 13<sup>th</sup>. The next regularly scheduled Council meeting will be held on Tuesday, February 20<sup>th</sup>, at 10:00 a.m.**

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

**Public  
Hearing/  
Bonds/  
Concord  
Road  
Wastewater  
Expansion**

**A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$250,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF THE CONCORD ROAD WASTEWATER EXPANSION AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH". This Ordinance provides for the issuance of up to**

**Public  
Hearing  
(continued)**

**\$250,000 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of the wastewater collection, conveyance and transmission facilities for the Concord Road Wastewater Expansion.**

**Hans Medlarz, County Engineer, reported that this ordinance is supplemental to the already committed \$729,000 loan and \$449,000 grant and that the debt will be paid by the users over 40 years.**

**There were no public comments.**

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

**M 082 18  
Adopt  
Ordinance  
No. 2547**

**A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2547 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$250,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF THE CONCORD ROAD WASTEWATER EXPANSION AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.**

**Motion Adopted: 5 Yeas.**

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

**County  
Code  
Updates/  
Draft  
Ordinances**

**Vince Robertson, Assistant County Attorney, and Janelle Cornwell, Planning and Zoning Director, presented an overview of various County Code updates for Council’s consideration.**

**Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, §115-188 RELATING TO TOWNHOUSE AND MULTIFAMILY DWELLING OUTSIDE WALL DIMENSIONS”.**

**Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, §115-181 RELATING TO YARDS AND OPEN SPACES GENERALLY”.**

**Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXVII, §115-213 RELATING LAPSES OF SPECIAL EXCEPTIONS AND VARIANCES”.**

**Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXVIII, §115-220 and §115-221 RELATING**

<b>County Code Updates/Draft Ordinances (continued)</b>	<p><b>INTERCONNECTIVITY REQUIRED FOR CERTAIN USES”.</b></p> <p><b>Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXVIII, §115-222 RELATING TO AMENDMENTS OF PRIOR APPROVALS”.</b></p> <p><b>Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, §115-183 RELATING TO DECKS, PORCHES PLATFORMS OR STEPS IN SIDE AND REAR YARDS”.</b></p> <p><b>Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, §115-181 RELATING TO YARDS AND OPEN SPACES GENERALLY”.</b></p> <p><b>Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXIII, §115-168 RELATING TO MODIFICATION OF OFF-STREET LOADING REQUIREMENTS”.</b></p> <p><b>Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV, §115-182 AND §115-183, AND TABLE 1 RELATING TO FRONT, SIDE AND REAR YARD SETBACKS IN SMALL, LEGALLY NONCONFORMING LOTS”.</b></p> <p><b>The Proposed Ordinances will be advertised for Public Hearing.</b></p>
<b>Grant Requests</b>	<p><b>Mrs. Jennings presented grant requests for the Council’s consideration.</b></p>
<b>M 083 18 Councilmanic Grant</b>	<p><b>A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give \$7,500.00 (\$3,750.00 each from Mr. Vincent’s and Mr. Arlett’s Councilmanic Grant Accounts) to the Laurel Lions Club Foundation for recreation complex renovation project.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</b></p>
<b>M 084 18 County-wide Youth Grant</b>	<p><b>A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,000.00 from Countywide Youth Grants to Delaware Technical &amp; Community College for the Sussex County Science Fair.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p>



**M 087 18**      **At 11:50 a.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to**  
**Recess**                      **recess until 1:30 p.m.**

**Motion Adopted:      3 Yeas, 2 Absent.**

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

**M 088 18**      **At 1:33 p.m., a Motion was made by Mr. Cole, seconded by Mr. Burton, to**  
**Reconvene**                      **reconvene.**

**Motion Adopted:      3 Yeas, 2 Absent.**

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

**Rules**                      **Mr. Moore read the rules of procedure for public hearings.**

**Mr. Arlett and Mr. Wilson joined the meeting.**

**Public**                      **A Public Hearing was held on the Proposed Ordinance entitled “AN**  
**Hearing/**                      **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**  
**CU 2110**                      **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HOUSE**  
                                 **CONSTRUCTION AND SALES BUSINESS TO BE LOCATED ON A**  
                                 **CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND**  
                                 **REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.709**  
                                 **ACRE, MORE OR LESS” (Conditional Use No. 2110) filed on behalf of**  
                                 **Gaw Venture Group, LLC c/o John Gaw (Tax I.D. No. 334-12.00-24.00)**  
                                 **(911 Address: 20028 John J. Williams Highway, Lewes).**

**The Planning and Zoning Commission held a Public Hearing on the**  
**Proposed Ordinance on January 11, 2018 at which time action was**  
**deferred. On January 25, 2018, the Commission recommended approval**  
**with conditions.**

**(See the minutes of the Planning and Zoning Commission dated January 11**  
**and 25, 2018.)**

**Janelle Cornwell, Planning and Zoning Director, presented the application.**

**The Council found that Rick Berl, Attorney, presented on behalf of the**  
**Applicants. He stated that the Applicants have a small custom building**  
**business (in-fill builders); that the business is a small family business and**  
**the brothers run the business; that they propose to use the site as an office;**  
**that the site has been used previously under a Conditional Use as a windows**  
**treatment business; that they have no employees and they work with**  
**subcontractors; that the office will not be used as a showroom, only a work**

**Public  
Hearing/  
CU 2110  
(continued)**

and meeting place; that the site will not be a staging area and there will be no equipment on the site; that no Traffic Impact Study was required; that DelDOT will address entrance requirements; that they would like a free standing 4 foot by 8 foot lighted sign; that the property is currently served by a cesspool, however, County sewer service is expected in the next 12 to 18 months; that they ask that hours of operation not be made a condition, however, they propose Monday through Saturday from 8:00 a.m. to 5:00 p.m. with an occasional meeting outside of those hours; that there is adequate parking; and that the proposed use will have less of an impact than the prior Conditional Use. Mr. Berl reviewed the zonings and uses in the surrounding area.

There were no public comments.

The Public Hearing and public record were closed.

**M 089 18  
Adopt  
Ordinance  
No. 2548/  
CU 2110**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2548 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HOUSE CONSTRUCTION AND SALES BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.709 ACRE, MORE OR LESS" (Conditional Use No. 2110) filed on behalf of Gaw Venture Group, LLC c/o John Gaw, with the following conditions:

- A. The use shall be limited to an office for home construction and sales within the existing structure.
- B. No outside storage of construction materials or equipment shall be permitted on the site.
- C. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
- D. The Applicant shall comply with any DelDOT entrance and roadway improvement requirements.
- E. Parking shall be permitted in the front yard setback. In addition, sufficient space shall be set aside for parking elsewhere on the property in the event that Route 24 is widened at some point.
- F. Failure to comply with these conditions shall result in the revocation of the Conditional Use approval.
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing/  
CU 2111**

**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 RV/PARK MODEL/TRAILER REPAIR AND REFURBISHMENT BUSINESS WITH OUTDOOR STORAGE AND SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS, OF A 32.16-ACRE PARCEL OF LAND” (Conditional Use No. 2111) filed on behalf of Michael Moutzalias (Tax I.D. No. 134-8.00-5.00 (portion of) (911 Address: 30190 Whites Neck Road, Dagsboro).**

**The Planning and Zoning Commission held a Public Hearing on this application on January 11, 2018 at which time action was deferred. The Commission deferred action on this application again on January 25, 2018.**

**(See the minutes of the Planning and Zoning Commission dated January 11 and 25, 2018.)**

**Janelle Cornwell, Planning and Zoning Director, presented the application.**

**The Council found that Linn Hickman was present on behalf of the Applicant. Ms. Hickman stated that the purpose of the application is to allow the Applicant to transport campers, trailers, and motor homes to this site for repairs, refurbishing and/or storage until they can be moved to the primary business location in Frankford; that the Applicant has a commercial location in Frankford for the sale of campers, trailers and motor homes; that occasionally a customer may come to the site to look at and/or purchase a unit; and that the storage area is located behind the house and barn on the property.**

**Public comments were heard.**

**There were no public comments in support of the application.**

**Kami Banks Kane spoke in opposition to the application stating that the use does not fit in the agricultural – residential area; that the Applicant has been making sales from the property; that if the Conditional Use is approved, sales from the site should not be allowed; that the Applicant has been running the business for years without being compliant; that the site does not have a buffer from other properties, but only horse pasture-type fencing; that the site is a RV graveyard; that the Applicant is not the property owner; and that the property owner is her Uncle and that the property is in a farm preservation trust. Ms. Kane stated that the Trust was submitted to the Planning and Zoning Commission along with pictures of the site.**

**There were no additional public comments.**



(continued) Council requested a legal determination as to the Agriculture Trust. Ms. Cornwell noted that this document is part of the record.

The Public Hearing and public record were closed.

**M 090 18** A Motion was made by Mr. Cole, seconded by Mr. Burton, to defer action  
**Defer** on Conditional Use No. 2111 filed on behalf of Michael Moutzalias.  
**Action on**

**CU 2111** Motion Adopted: 5 Yeas.

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

**Public** A Public Hearing was held on the Proposed Ordinance entitled "AN  
**Hearing/** ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN  
**CU 2112** AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MEDICAL  
OFFICE AND ANCILLARY MEDICAL USES TO BE LOCATED ON A  
CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND  
REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.30  
ACRES, MORE OR LESS" (Conditional Use No. 2112) filed on behalf of  
Mitchell Family Limited Partnership (Tax I.D. No. 335-8.00-37.01 and 335-  
8.00-37.00 (portion of) (911 Address: Not Available).

The Planning and Zoning Commission held a Public Hearing on this application on January 11, 2018 at which time action was deferred. The Commission deferred action on this application again on January 25, 2018.

(See the minutes of the Planning and Zoning Commission dated January 11 and 25, 2018.)

Janelle Cornwell, Planning and Zoning Director, presented the application.

An Exhibit Book was previously submitted by the Applicant and distributed to Council members.

The Council found that David Hutt, Attorney, was present on behalf of the Applicant with Robert Mitchell and Jerry Mitchell, members of the Mitchell Family Limited Partnership. Also present were Ring Lardner of Davis, Bowen & Friedel; David Blaeuer and Michael Fiori of the Development Group; and Bob McLeish and Mike Glick with Lighthouse Construction.

Mr. Hutt, Mr. Lardner, Mr. Blaeuer and Mr. Fiori discussed the proposal for a 39,000 square foot medical facility, the background of the property, information on the surrounding area including zonings and uses, the project's compatibility with other office and commercial uses in the area, the layout of the site including setbacks, the concept for the proposed medical facility; building rendering, information on the Kings Highway and

**Public  
Hearing/  
CU 2112  
(continued)**

**Gills Neck Road intersection, the Lewes Scenic and Historic Byway, DelDOT's review of the planned project; entrance and access plans, water and sewer availability, parking, and stormwater management. Mr. Hutt discussed the project's compliance with Sussex County's Comprehensive Plan and with the State Strategies for State Policies and Spending. They stated that the project will serve the local community by providing supporting services in the same building, i.e. medical examination, diagnostic radiology, MRI, physical therapy, etc., providing continuity of care to cut down on numerous trips to different facilities.**

**Mr. Rutt stated that proposed conditions were submitted in the Exhibit Book and he commented on two additional conditions that were discussed during the Planning and Zoning Commission's process: one relating to access to the site and one relating to signage (request made was for one 50 square foot sign on the building and two 32 square foot signs, one on each road).**

**There were no public comments.**

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

**M 091 18  
Defer  
Action on  
CU 2112**

**A Motion was made by Mr. Arlett, seconded by Mr. Burton, to defer action on Conditional Use No. 2112 filed on behalf of Mitchell Family Limited Partnership.**

**Motion Adopted: 5 Yeas.**

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

**M 092 18  
Adjourn**

**A Motion was made by Mr. Arlett, seconded by Mr. Burton, to adjourn at 2:55 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.}*