

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 25, 2025

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 25, 2025, at 10:00 a.m., in Council Chambers, with the following present:

Douglas B. Hudson	President
John L. Rieley	Vice President
Jane Gruenebaum	Councilwoman
Matt Lloyd	Councilman
Steve C. McCarron	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Hudson called the meeting to order.

**M 127 25
Approve
Agenda**

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

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Minutes

The minutes from March 11, 2025 were approved by consensus.

**Corres-
pondence**

Mr. Moore reported that a letter was received from Autism Delaware thanking Council for their support.

**Public
Comments**

Public comments were heard, and the following people spoke:

Mr. Alan Roth spoke about development, County law and zoning in Sussex County.

Ms. Susan Petze-Rosenblum thanked the County staff and Council for the work that they have done this year and spoke about the approval process for applications.

**Adminis-
trator's
Report**

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

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the

Administrator's Report (continued)

following projects have received Substantial Completion: Silver Woods Villas – Phase 2B (Construction Record) effective March 6th; and Patriots Glen – Phase 1E (Construction Record) effective March 10th.

2. Reassessment Appeals

The deadline to submit your application to appeal Sussex County property tax assessment is March 31, 2025. To request an appeal hearing, property owners should submit an application to the Sussex County Assessment Division before the deadline. For an application and instructions, visit Sussex County's reassessment page at www.sussexcountyde.gov/reassessment and then click the Board of Assessment Review link.

3. Land Use Reform Working Group

The Land Use Reform Working Group will hold its first meeting on Thursday, March 27th at 10:00 AM at the County's Public Safety Complex, 21911 Rudder Lane, Georgetown. This is the kick-off meeting to a series of planned workshops with selected stakeholders from a variety of disciplines. County Council requested the working group to review land use trends in Sussex County and to provide recommendations to the Council for future consideration. Information regarding the meetings can be found at www.sussexcountyde.gov.

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

EMS Monitor RFP

Robbie Murray, Director of Public Safety presented a heart monitor request for proposal results and recommendation of award for Council's consideration.

M 128 25 Approve Heart Monitor Request

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum, be it moved that the Sussex County Council authorize the Director of Public Safety to negotiate and execute a contract with Striker, the highest scoring vendor to purchase 47 cardiac monitors.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

Bookmobile RFP/ Contract Rachel Lynch, County Librarian presented results from the Bookmobile RFP and a recommendation for an award for a contract for Council's consideration.

M 129 25 Approve Bookmobile Contract A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum be it moved that the Sussex County Council, based on the recommendation of the Sussex County Department of Libraries award the contract for the purchase of the new bookmobile to Tesco Specialty Services, in the amount of \$309,115 to be completed and in possession of Sussex County by June 30, 2025.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

New Marydels Rd. CO No. 1 Mark Parker, Assistant County Engineer presented change order no. 1 for New Marydels Road, Tanglewood & Oak Acres sewer extension for Council's consideration.

M 130 25 Approve CO No. 1 A Motion was made by Mr. McCarron seconded by Mr. Lloyd, be it moved based on the recommendation of the Sussex County Engineering Department that change order no. 1 be approved for joint contracts S19-19 & S22-24 increasing the contract from 240 calendar days to 243 calendar days with no additional cost to the contract.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

Paramedic Station 103 CO No. 5 Mark Parker, Assistant County Engineer presented final balancing change order no. 5 and project closeout for Paramedic Station 103 for Council's consideration.

M 131 25 Approve CO No. 5/ Paramedic Station 103 A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum that be it moved based upon the recommendation of the Sussex County Engineering Department, that balancing change order no. 5 be approved for contract C21-18, Paramedic Station 103 decreasing the overall contract amount by \$17,200.00 and that final project closeout be granted.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

Permission to Prepare & Post Notices/ Millsboro Martial Arts into SCUSSD

John Ashman, Director of Utility Planning & Design Review presented a permission to prepare and post notices for Millsboro Martial Arts Annexation of the Sussex County Unified Sanitary Sewer District (Dagsboro/Frankford Area). The Engineering Department received a request from Plitko Engineering, LLC on behalf of their client Dupont Properties, LLC owners/developers of parcels 233-16.00-22.00, 24.00 & 25.00 in the Tier 2 area for sewer service. The firm was informed the parcels were not contiguous to the existing area and that a request for annexation from the intervening parcels was needed. The engineer provided signed letters from the owners of parcel 233-11.00-244.00, 233-11.00-240.00 & 233-11.00-240.01 making the project contiguous to the existing district. The project will be responsible for system connection charges in place at the time of connection.

M 132 25 Approve Permission to Prepare & Post Notices/ Millsboro Martial Arts

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum that be it moved by Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for the Millsboro Martial Arts Expansion of the Sussex County Unified Sanitary Sewer District to include six parcels along Route 113 as presented.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

Permission to Prepare & Post Notices/ Crescent Place into SCUSSD

John Ashman, Director of Utility Planning & Design Review presented a permission to prepare and post notices for Crescent Place Annexation of the Sussex County Unified Sanitary Sewer District (Miller Creek Area). The Engineering Department received a request from Beacon Engineering, LLC on behalf of their client, The Evergreene Companies, LLC owners/developers of parcel 134-19.00-24.00, adjacent to the existing Miller Creek Area of the SCUSSD. Parcels are located along Central Ave; the project is proposed for 57 single family lots plus a clubhouse. The project will be responsible for system connection charges at the time of connection.

M 133 25 Approve Permission to Prepare & Post Notices/ Crescent Place

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd that be it moved that the Sussex County Engineering Department is authorized to prepare and post notices for the Crescent Place Expansion of the Sussex County Unified Sanitary Sewer District to include parcel 134-19.00-24.00 as presented.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

Pintail

Hans Medlarz, Project Manager presented final balancing change order no.

**Pointe/
CO No. 2** **2 and substantial completion for Pintail Pointe for Council’s consideration.**

**M 134 25
Approve CO
No. 2/
Pintail
Pointe CO
No. 2 &
Closeout** **A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley that be it moved based upon the recommendation of the Sussex County Engineering Department, that change order no. 2 for contract S21-16, Pintail Pointe be approved decreasing the contract amount by \$13,404.00 and granting substantial completion as of March 1st, 2025 with any held retainage released in accord with the contract documents, contingent upon SRF concurrence.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Wolfe Neck
RWF
Agreement** **Hans Medlarz, Project Manager presented an agreement for denali sludge removal for the Wolfe Neck regional wastewater facility for Council’s consideration.**

**M 135 25
Approve
Wolfe Neck
RWF Sludge
Removal
Agreement** **A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum that be it moved based upon the recommendation of the Sussex County Engineering Department, that County Council approve an agreement in the standard Sussex County format with the Denali Corporation in the amount of \$3,850,800.00 for the sludge removal at the Wolfe Neck Regional Wastewater facility.**

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Absent;
Mr. Hudson, Yea**

**SCRWF CO
No. 29** **Hans Medlarz, Project Manager presented final balancing change order and substantial completion for electrical construction for South Coastal WRF and Rehoboth Beach WTP for Council’s consideration.**

**M 136 25
Approve CO
No. 29/
SCRWF** **A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum that be it moved based upon the recommendation of the Sussex County Engineering Department, that final balancing change order no. 29 for contract C19-17, South Coastal Regional Wastewater Facility Treatment Process Upgrade No. 3 Electrical Construction be approved for a decrease of \$26,420.00 granting substantial completion as of March 21, 2025 and a deduction in retainage to \$35,000.00, as part of the final payment.**

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Absent;**

Mr. Hudson, Yea

**SCWRF
Bioworks
Aeration PO** **Hans Medlarz, Project Manager presented bioworks aeration equipment purchase order for South Coastal WRF treatment process upgrade no. 3 – Inland Bays Extension for Council’s consideration.**

**M 137 25
Approve
Bioworks
Aeration
Equipment
PO** **A Motion was made by Mr. McCarron, seconded by Mr. Lloyd that be it moved based upon the recommendation of the Sussex County Engineering Department, that County Council approves a purchase order to Bioworks in the amount of \$1,397,640.00 for the conversion and upgrade of the aeration system, as part of the Inland Bays expansion project.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Old
Business/
CU2458** **Under Old Business, Jamie Whitehouse, Planning & Zoning Director presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 49.7 ACRES, MORE OR LESS” (property lying on the north side of Oneals Road [S.C.R. 485] approximately 500 ft. southwest of Sussex Highway [Rt. 13]) (911 Address: 27720 Oneals Road, Seaford) (Tax Map Parcel: 132-6.00-303.00 [p/o]) filed on behalf of O’Neals Solar, LLC.**

The County Council held a Public Hearing on the application at the meeting of March 4, 2025. At the conclusion of the Public Hearing, the Council closed the Public Record and action on the application was deferred for further consideration.

**M 138 25
Amend
Condition C/
CU2458** **A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to amend Condition C so that the second sentence now reads “There shall be a landscaped buffer that is at least 50 feet wide along the boundary lines of the site.”**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 139 25
Adopt
Ordinance
No. 3081/** **A Motion was made by Mr. Lloyd, seconded by Mr. Rieley to Adopt Ordinance No. 3081 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY TO BE LOCATED**

CU2458

ON A PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 49.7 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as amended by this Council 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. The solar array will be located on approximately 19.75 acres of a larger 49.7-acre tract.**
- 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 arrays. There was testimony that this solar array will benefit residential, business, and municipal subscribers with lower power costs.**
- 4. The proposed solar array is located on a parcel of land that is used for agricultural purposes. It is surrounded on two sides by land used for agricultural purposes, including poultry houses. Although there are residential properties to the north of this site, the arrays are at least 200 feet from the closest dwelling and the nearby properties will also be protected by the conditions set forth in the Code and in this recommendation. None of the residents along the northern boundary of the site objected to the proposed use.**
- 5. The land is designated as being within the “Low Density Area” according to Sussex County’s Future Land Use Map; this is an appropriate location for a solar array.**
- 6. This Application generally complies with Ordinance No. 2920 regarding solar arrays.**
- 7. 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.**
- 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 conditions set forth in Ordinance No. 2920 and the following additional conditions:**
 - a. The use shall be for ground-mounted solar array. No other types of electric generation shall be permitted at the site.**
 - b. The Final Site Plan shall clearly show the limits of the Conditional Use area for this solar array as well as the remaining acreage that is not part of this Conditional Use.**
 - c. All required fencing shall include interwoven screening. The fence location and type of screening shall be shown on the Final Site Plan. There shall be a landscaped buffer that is at least 50 feet wide along the boundary lines of the site. The landscaping shall include at least fifteen trees within every fifty linear feet of the buffer. Wherever trees exist within the buffer areas, they**

**M 139 25
Adopt
Ordinance
No. 3081/
CU2458
(continued)**

- shall be preserved, and these non- disturbed forested areas shall be shown on the Final Site Plan. The Final Site Plan shall also include a landscape plan confirming these planting requirements.
- d. Any lighting on the facility shall only consist of perimeter lighting needed for security purposes. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - e. One unlit 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.**
 - f. All transformers or similar equipment or structures shall be centrally located within the solar array, and they shall be shown on the Final Site Plan.**
 - 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. The Final Site Plan shall include 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.**
 - i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Grant
Requests**

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

**M 140 25
Milton
Historical
Society**

A Motion was made by Mr. McCarron, seconded by Mr. Rieley to give \$1,000 (\$500 from Mr. McCarron's Councilmanic Grant Account and \$500 from Mr. Rieley's Councilmanic Grant Account) to the Milton Historical Society for their When Trains Arrive Exhibit.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 141 25
Mariner
Middle
School**

A Motion was made by Mr. McCarron, seconded by Mr. Rieley to give \$1,000 (\$500 from Mr. McCarron's Councilmanic Grant Account and \$500 from Mr. Hudson's Councilmanic Grant Account) to Mariner Middle School for their National Junior Honor Society 2025.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Proposed
Ordinance
Introduct-
ions**

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 60.84 ACRES, MORE OR LESS” filed on behalf of Marlin Cove, LLC.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (106 UNITS) TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 23.90 ACRES, MORE OR LESS” filed on behalf of Marlin Cove, LLC.

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE INSTALLATION BUSINESS WITH OUTSIDE STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” filed on behalf of Christopher Hanyok.

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE PREPARATION, PROCESSING AND STORAGE OF MATERIAL IN RELATION TO AN EXISTING BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 82.32 ACRES, MORE OR LESS” filed on behalf of Stockley Materials, LLC.

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2290 (ORDINANCE NO. 2849) TO AMEND CONDITION “A” RELATING TO BUILDING SIZE AND USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD KILL HUNDRED, SUSSEX COUNTY, CONTAINING 7.12 ACRES, MORE OR LESS” filed on behalf of Michael Makowski.

Ms. Gruenebaum introduced a Proposed Ordinance entitled “AN

Proposed Ordinance Introductions (continued)

ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN C-1 GENERAL COMMERCIAL DISTRICT FOR A CAMPGROUND FOR THE UNHOUSED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 7.16 ACRES, MORE OR LESS” filed on behalf of Tharros Village (c/o Code Purple at the Cape).

Mr. Lloyd introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ENERGY FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33.69 ACRES, MORE OR LESS” filed on behalf of Hastings Community Energy Initiative, LLC.

The Proposed Ordinances will be advertised for a Public Hearing.

CM Comments

Mr. Lloyd commented that the working group is scheduled to meet now through July with meetings scheduled.

M 142 25 Go Into Executive Session

At 10:55 a.m., a Motion was made by Mr. McCarron, seconded by Mr. Rieley to enter into an Executive Session for the purpose of discussing matters relating to land acquisition.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

Executive Session

At 11:00 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 ended at 11:42 a.m.

M 143 25 Reconvene

At 11:44 a.m., a Motion was made by Mr. Rieley, seconded by Mr. McCarron to come out of Executive Session and go back into Regular Session.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea

M 144 25 E/S Action/ Parcel 2025-B

A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum to give the County Administrator the authority to negotiate, enter into a contract and close or settlement for parcel 2025-B.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

M 145 25 At 11:46 p.m., a Motion was made by Mr. McCarron, seconded by Mr.
Recess Lloyd to recess until 1:30 p.m. Public Hearings.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

M 146 25 At 1:33 p.m., a Motion was made by Mr. Rieley, seconded by Mr.
Reconvene McCarron to come out of recess back into Regular Session.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Absent; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Mr. Moore reviewed the rules for public hearings.

**Public
Hearing/
Amend
Chapter
103/
Taxation**

A Public Hearing was held on an Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 103 (“TAXATION”), ARTICLE II (“REAL PROPERTY EXEMPTION FOR SENIOR CITIZENS”) OF THE CODE OF SUSSEX COUNTY TO UPDATE THE ASSESSED PROPERTY VALUE THRESHOLD AND RESIDENCY REQUIREMENT”.

A Public Hearing was held on an Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 103 (“TAXATION”), ARTICLE I (“REAL PROPERTY TAX EXEMPTION FOR DISABLED PERSONS”) OF THE CODE OF SUSSEX COUNTY TO UPDATE THE ASSESSED PROPERTY VALUE, RESIDENCY REQUIREMENT AND INCOME THRESHOLDS, THE APPLICATION PROCEDURE AND TO EXCLUDE PENSION INCOME DIRECTLY RELATED TO THE APPLICANT’S DISABILITY WHEN CALCULATING APPLICANT’S INCOME”.

Mrs. Jennings reviewed the two tax programs that are calculated on taxable assessed value and are established in County Code; Low-income Over 65 and Disability. She reported that currently, if a taxpayer qualifies, they will get \$12,500 off their taxable assessment. There are 818 property owners that qualify. With the new assessed values, it is recommended to increase from \$12,500 to \$229,000. For the Low-Income Over 65 program, it is recommended to change the exemption from \$12,500 to \$229,000 and change the residency requirement from 3 years to 5 years. It is also being recommended to change the County Disability Program (non-veteran)

**Public Hearing/
Amend Chapter 103/
Taxation
(continued)**

exemption from \$12,500 to \$229,000, change the residency requirement from 3 years to 5 years and change income limits to match the low-income 65 program \$4,500 to \$6,000 for single and \$6,500 to \$7,500 for married (income does not include social security benefits, railroad retirement benefits and pension income from the applicant's disability).

Mrs. Jennings noted that these changes do not impact the State 65 program or the Disabled Veterans Tax Credit.

There were no public comments.

The Public Hearing and public record were closed.

**M 147 25
Adopt Ordinance No. 3082/
Property Exemption/
Senior Citizens**

A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum to Adopt Ordinance No. 3082 entitled "AN ORDINANCE TO AMEND CHAPTER 103 ("TAXATION"), ARTICLE II ("REAL PROPERTY EXEMPTION FOR SENIOR CITIZENS") OF THE CODE OF SUSSEX COUNTY TO UPDATE THE ASSESSED PROPERTY VALUE THRESHOLD AND RESIDENCY REQUIREMENT".

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

For the second Ordinance, there were no public comments.

The Public Hearing and public record were closed.

**M 148 25
Adopt Ordinance No. 3083/
Tax Exemption/
Disabled Persons**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to Adopt Ordinance No. 3083 entitled "AN ORDINANCE TO AMEND CHAPTER 103 ("TAXATION"), ARTICLE I ("REAL PROPERTY TAX EXEMPTION FOR DISABLED PERSONS") OF THE CODE OF SUSSEX COUNTY TO UPDATE THE ASSESSED PROPERTY VALUE, RESIDENCY REQUIREMENT AND INCOME THRESHOLDS, THE APPLICATION PROCEDURE AND TO EXCLUDE PENSION INCOME DIRECTLY RELATED TO THE APPLICANT'S DISABILITY WHEN CALCULATING APPLICANT'S INCOME".

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Public Hearing/
Camp Salty**

A Public Hearing was held for the Camp Salty Farm Annexation into the Sussex County Unified Sanitary Sewer District (Miller Creek Area).

**Farm
Annexation
Into
SCUSSD**

John Ashman, Director of Utility Planning & Design Review reported that Council granted permission on February 11th for the proposed expansion of the Sussex County Unified Sanitary Sewer District. The Engineering Department has received a request from Stephens Environmental Consulting Group Inc. on behalf of their client Camp Salty Farm, LLC the owner of parcel 134-19.00-118.00. The project is adjacent to the existing Sussex County Unified Sanitary Sewer District. The project will be responsible for system connection charges at the time of connection. To date, no correspondence has been received in support or opposition to this annexation.

There were no public comments.

The Public Hearing and public record were closed.

**M 149 25
Adopt
Resolution
No. R 009 25
Camp Salty
Farm
Annexation**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to Adopt Resolution No. R 009 25 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MILLER CREEK AREA, TO INCLUDE THE CAMP SALTY FARM ON THE SOUTH SIDE OF CAMP BARNES ROAD LOCATED IN THE BALITMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Public
Hearing/
Bridgeville
Warehouses
Annexation
into
SCUSSD**

A Public Hearing was held for the Bridgeville Warehouse Annexation into the Sussex County Unified Sanitary Sewer District (Western Sussex Area).

John Ashman, Director of Utility Planning & Design Review reported that Council permission on February 11th for the proposed expansion of the Sussex County Unified Sanitary Sewer District (Western Sussex Area). The Engineering Department received a request from Becker Morgan Group Inc. on behalf of their client FPDN Management, LLC, the owners/developers of a project to be known as Bridgeville Warehouses for parcel 131-19.00-4.00 and the neighboring parcel 131-19.00-5.00. The parcels are zoned CR-1 and adjacent to the existing town boundary and the Sussex County Unified Sanitary Sewer District. The project will be responsible for system connection charges at the time of connection. To date, there has been no correspondence received in support or opposition to this application.

Public comments were heard.

Mr. Frank DiMondi spoke about the proposed annexation; that he is one of the half owners of FDPN; that this project has been underway for a long time; that it was readjusted to build a business center; that due to its location, the marketing has paid off; that it is going to be a successful center; that the last piece is to get the sewer to the site; that they have to have some business located there within the next 4-5 months.

The Public Hearing and public record were closed.

**M 150 25
Adopt
Resolution
No. R 010 25
Bridgeville
Warehouses
Annexation**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to Adopt Resolution No. R 010 25 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE THE BRIDGEVILLE WAREHOUSES ON THE WEST SIDE OF SUSSEX HIGHWAY. THE PARCEL IS LOCATED IN THE NORTHWEST FORD HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Rules

Mr. Moore read the rules of procedure for zoning hearings.

**Public
Hearing/
CU2466**

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 BOAT REPAIR & STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.54 ACRES, MORE OR LESS” (property lying on the east side of Bethany Road [Rt. 17] approximately 580 ft. southwest of Polly Branch Road [S.C.R. 386]) (911 Address: N/A) (Tax Map Parcel: 533-17.00-11.10) filed on behalf of Albert Fanelli.

The Planning & Zoning Commission held a Public Hearing on the application on January 22, 2025. At the meeting of February 5, 2025, the Planning & Zoning Commission recommended approval of the application for the 7 reasons stated and subject to the 6 recommended conditions as outlined.

The Council found that Mr. Albert Fanelli and Ms. Kelly Markomarolakis, spoke on behalf of the Applicant; that the application purchased the property to use for a farm; that due to medical conditions, he is no longer able to do that; that the plan is to utilize the property for boat storage and repairs to gain some supplemental income; that Mr. Fanelli has his boat on the property and one of his friends has a boat there; that they plan to lease it out.

There were no public comments.

The Public Hearing and public record were closed.

**M 151 25
Adopt
Ordinance
No. 3084/
CU2466**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to Adopt Ordinance No. 3084 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT REPAIR & STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.54 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. This site was previously the subject of a Conditional Use granted in 1998 for mini storage and outside recreational vehicle and boat storage. That was approved as Conditional Use No. 1253.**
- 2. The Applicant now seeks approval for this conditional use to allow boat repairs to also occur on this site. This is a reasonable expansion of the existing use.**
- 3. The boat repair and storage will occur inside. This is an appropriate, convenient location at the existing boat storage site.**
- 4. The Applicant has stated that the use will not have a substantial impact upon area roadways.**
- 5. This minor expansion of the existing use will not have an adverse impact upon the neighboring properties or community.**
- 6. Tourism and outdoor recreational activities on the area’s waterways are a significant part of the Sussex County economy. Boat repairs promote and support both of these activities. As a result, it is of a public or semi-public character and is desirable for the general convenience and welfare of residents and visitors to this area of Sussex County.**
- 7. No parties appeared in opposition to this Application.**
- 8. This recommendation for approval is subject to the following conditions:**
 - a. The conditions set forth in Conditional Use 1253 that are not inconsistent with this recommendation and shall remain in effect.**
 - b. This additional use shall be limited to boat repairs. No other types of repairs (i.e. automobiles and trucks) shall occur on the site.**
 - c. All repairs and maintenance shall only occur indoors, with all fluids disposed of properly.**
 - d. No hazardous materials or fuel shall be stored on the property other than what may be in the tanks of boats and watercraft located on the site.**
 - e. No more than ten boats shall be under repair or awaiting repair on the property at any time. The area set aside on the site for the placement of boats awaiting repair shall be clearly shown on the Final Site Plan.**
 - f. The Final Site Plan shall be subject to the review and approval of**

the Sussex County Planning & Zoning Commission.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Public
Hearing/
CZ 2014**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.57 ACRES, MORE OR LESS” (property lying on the northwest side of Savannah Road [Rt. 9B], approximately 620-feet northeast of the intersection of Savannah Road and Old Orchard Road [S.C.R. 269A]) (911 Address: 1545 Savannah Road, Lewes) (Tax Map Parcel: 335-12.05-12.00) filed on behalf of J & T Properties, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on January 22, 2025. At the meeting of February 5, 2025, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated as outlined.

The Council found that Mr. Tim Willard, Esq., of Fuqua, Willard & Sharp, spoke on behalf of the Applicant that in the 2019 Comprehensive Plan both properties were designated commercial and in a coastal zone, that the area is surrounded by commercial zoning; that the J&T Properties, LLC parcel was previously granted a conditional use for a two (2) story medical building in 2010; that it never got built due to issues with DelDOT and their entrance requirements; that DelDOT is taking a portion of the lining of Old Orchard and Savannah Road and a light will be installed at the intersection; that DelDOT has given a right in and right out for both properties; that there is a conceptual plan with a cross access easement for two (2) small office buildings; that the Comprehensive Plan designates these properties in growth areas and commercial; that medical buildings are appropriate for this area and there is a demand for more of them; that there has been a lot of conditionals uses granted in this area.

Ms. Juile Knowles stated that she has tried to get this rezoned for a long time; that there were some hold ups with DelDOT; that they hope to get a therapy center in there and continue working.

Public comments were heard.

Mr. Alan Roth spoke in opposition of the application; that these two cases exemplifies his point of where the responsibility lies for development pressure; that these two parcels are located near DelDOT’s planned

Public
Hearing/
CZ 2014
(continued)

reconstruction of one of the most complicated and busiest intersections in the community; that there is a big project that is scheduled to commence shortly and will take until 2028 to complete per DelDOT; that the applicants have plans to demolish the buildings there and construct two much larger buildings; that on Kings Highway, DelDOT is planning to put five roundabouts at the same time that this is taking place; that the residents will be unable to get in and out of town; that there is nothing in writing of anything that the attorney said about the plans that were presented; that the time for this application is after all of these projects are finished and we see how it is all working; that DelDOT does not start or finish on time.

The Public Hearing and public record were closed.

M 152 25
Adopt
Ordinance
No. 3085/
CZ2014

A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to Adopt Ordinance No. 3085 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.57 ACRES, MORE OR LESS" for the reasons given by the Planning & Zoning Commission as follows:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant's property is located at the Westcoats Corner intersection on the outskirts of the City of Lewes. It is next to the proposed relocated and redesigned intersection of Old Orchard Road, Savannah Road, and Westcoats Road. There is other business, medical, commercial, and institutional zonings and uses in the immediate area. This is an appropriate location for C-2 zoning.
3. C-2 Zoning at this location will benefit nearby residents of Sussex County by providing a convenient location for retail uses or consumer services.
4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
5. The site is in the "Coastal Area" according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
6. No parties appeared in opposition to this Application.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. Any future development of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Public
Hearing/
CZ2023**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.50 ACRES, MORE OR LESS” (property lying on the northwest side of Savannah Road [Rt. 9], approximately 200 feet northeast of the intersection of Savannah Road [Rt. 9] and Westcoats Road [S.C.R. 12]) (911 Address: 1543 Savannah Rd., Lewes) (Tax Map Parcel: 335-12.05-6.01) filed on behalf of Jane Brady.

The Planning & Zoning Commission held a Public Hearing on the application on January 22, 2025. At the meeting of February 5, 2025, the Planning & Zoning Commission recommended approval of the application for the 8 reasons stated as outlined.

The Council found that Mr. Tim Willard, Esq., of Fuqua, Willard & Sharp, spoke on behalf of the Applicant that in the 2019 Comprehensive Plan both properties were designated commercial and in a coastal zone, that the area is surrounded by commercial zoning; that the J&T Properties, LLC parcel was previously granted a conditional use for a two (2) story medical building in 2010; that it never got built due to issues with DelDOT and their entrance requirements; that DelDOT is taking a portion of the lining of Old Orchard and Savannah Road and a light will be installed at the intersection; that DelDOT has given a right in and right out for both properties; that there is a conceptual plan with a cross access easement for two (2) small office buildings; that the Comprehensive Plan designates these properties in growth areas and commercial; that medical buildings are appropriate for this area and there is a demand for more of them; that there has been a lot of conditionals uses granted in this area.

Ms. Jane Brady stated that DelDOT is taking some of the property; that they were able to figure something out with enough parking spaces and square foot for the building; she hopes that the request is granted.

Public comments were heard.

Mr. Alan Roth spoke in opposition of the application; that these two cases exemplifies his point of where the responsibility lies for development pressure; that these two parcels are located near DelDOT’s planned reconstruction of one of the most complicated and busiest intersections in the community; that there is a big project that is scheduled to commence shortly and will take until 2028 to complete per DelDOT; that the applicants have plans to demolish the buildings there and construct two

much larger buildings; that on Kings Highway, DelDOT is planning to put five roundabouts at the same time that this is taking place; that the residents will be unable to get in and out of town; that there is nothing in writing of anything that the attorney said about the plans that were presented; that the time for this application is after all of these projects are finished and we see how it is all working; that DelDOT does not start or finish on time.

The Public Hearing and public record were closed.

**M 153 25
Adopt
Ordinance
No. 3086/
CZ2023**

A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to Adopt Ordinance No. 3086 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.50 ACRES, MORE OR LESS” for the reasons given by the Planning & Zoning Commission as follows:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant’s property is located at the Westcoats Corner intersection on the outskirts of the City of Lewes. It is next to the proposed relocated and redesigned intersection of Old Orchard Road, Savannah Road, and Westcoats Road. There is other business, medical, commercial, and institutional zonings and uses in the immediate area. This is an appropriate location for C-2 zoning.
3. C-2 Zoning at this location will benefit nearby residents of Sussex County by providing a convenient location for retail uses or consumer services.
4. There is no evidence that this rezoning will have an adverse impact on neighboring properties or area roadways.
5. The site is in the “Coastal Area” according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
6. No parties appeared in opposition to this Application.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.
8. Any future development of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;**

Mr. Hudson, Yea

**Public
Hearing/
CZ2012 &
CU2449**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS” (properties are lying on the east side of Banks Road [S.C.R. 298], approximately 0.61 mile northeast of Long Neck Road [Rt. 23]) (911 Addresses: 25352 Rudder Road, Millsboro, 25071 Banks Road, Millsboro, & N/A) (Tax Map Parcels: 234-23.00-276.00, 276.01, & 277.00) filed on behalf of Rudder Road, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on January 22, 2025. At the meeting of March 5, 2025, the Planning & Zoning Commission recommended approval of the application for the 6 reasons stated as outlined.

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 MULTI-FAMILY DWELLINGS (116 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS” (properties are lying on the east side of Banks Road [S.C.R. 298], approximately 0.61 mile northeast of Long Neck Road [Rt. 23]) (911 Address: 25352 Rudder Road, Millsboro, 25071 Banks Road, Millsboro, & N/A) (Tax Map Parcels: 234-23.00-276.00, 276.01, & 277.00) filed on behalf of Rudder Road, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on January 22, 2025. At the meeting of March 5, 2025, the Planning & Zoning Commission recommended approval of the application for the 10 reasons stated and subject to the 19 recommended conditions as outlined.

The Council found that Mr. David Hutt, Esq., of Morris James LLP, spoke on behalf of the Applicant that the application relates to three tax parcels totaling a little over 30 1/2 acres of land; that the first application is an application to change the zoning classification of the property from the AR-1 Agricultural Residential District to the MR Medium Density Residential District, the second application is a conditional use seeking to have a multi-family use on the property that would consist of 116 units, with a mixture of those units being seventy-five (75) townhomes and forty-one (41) single family lots; that the property is located off of Banks Road which is surrounded by a number of residential uses, single family homes, manufactured home communities and multi-family uses; that the property has been timbered several times; that the property sat vacant for several years and plants and shrubs have started to grow; that the Applicant hired Mr. Will Twupack with Watershed Eco, a DNR qualified forest professional, to conduct a

**Public
Hearing/
CZ2012 &
CU2449
(continued)**

forestation delineation report of the property; that the report identifies 3 tiers; that the tier 1 is a high quality forest and includes the highest habitat; that the value decreases with level 2 and decreases further with level 3; that it was determined that there was no Tier 1 or Tier 2 forest and habitat value on this property; that there is a little more than 3 acres of Tier 3 forest and approximately twenty-seven (27) acres is referred to as non-forest; that this is the area of where plants have grown up since the last time it was timbered; that there is an abandoned home on the corner of the property, that once was part of the Dupont Colored Schools Initiative, known as the Friendship School; that in the 1950s it was converted to a private residence; that mother nature is now taking over that building; that the Applicant recognized the past history of the structure and reached out to the Nanticoke Indian Tribe Association along with other organizations to see if they would be interested in the dwelling being moved and they were not; that it is proposed that building will be removed and a place marker will be put on the property; that the property is located Level 2 on the State Strategies Map; that the property lies within a coastal area on the Future Land Use Map; that Chapter 4 describes coastal areas as being an area where a range of housing types should be permitted, including single family homes, townhouses and multi-family units which is consistent with this application; that the predominant zoning district in this area is GR General Residential, but the applicant chose to request for a change to MR Medium Density Residential; that the zoning code defines the purpose of the MR Zoning District as being to provide for a medium density residential development in areas which are, or are expected to become generally urban in character and where sanitary sewers and public water supplies may or may not be available at a time of construction; that there are several communities around this property with much higher densities of units per acre; that Garden Villas is 9.4 units per aces, Bayshore is 8.9 units per acre, Shawn's Hideaway is 5.2 units per acre, Enchanted Acres is 3.9 units per acre; that the proposal of the Creekside development is 3.8 units per acre; that the property has central water and sewer available; that the property is located near many commercial uses and employment centers; that the layout was purposefully designed to reflect the area in which the property is located; that the Creeks End Community at the rear of the property was considered and the single family homes were aligned adjacent to the single family homes already within the Creeks End Community; that the townhomes will be placed at the entrance to the community approximately 125 feet off of Banks Road; that as you enter into the development there will be the forty-one (41) single family homes towards the rear and there will be approximately 12 acres or 40% of open space; that there will be a pool, pool house and a dock with kayak launch on the Guinea Creek with walking trails along the Guinea Creek that would intersect with the community sidewalks; that the units along the Guinea Creek will have a proposed 30 foot landscape buffer with the closest homes sitting back more than 125 feet; that along the Guinea Creek there would be a 30-foot buffer management plan per the County Code; that there are both tidal and non-tidal wetlands associated with the boundary of the Guinea Creek and Mr. Launay has worked on the delineation, reporting and development of the resource buffer management plan; that the design of the

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Hearing/
CZ2012 &
CU2449
(continued)**

community kept all of the lots and housing out of the flood plain area; that the balance is in Flood Plain X; that there are public utilities available to the site with Tidewater indicating its willingness to provide central water to the property; that the Sussex County Engineering Department filed its report indicating that this property is in a Tier 1 Sewer District or planning area, and that it has capacity for the proposed project; that there are no wellhead protection areas on the property; that Mr. Launay reported that there are no endangered species on the site; that the report showed the monarch butterfly and tri colored bat but the critical habitat for those two species is not present on the property; that there would be a Homeowners Association created to manage and govern the common areas and the Indian River School District will determine a necessary bus stop within the development; that DelDOT's response to that Service Level Evaluation Request, indicated that this proposed community would have a minor impact on traffic which means less than 200 vehicle trips in any hour and less than 2,000 vehicle trips per day; that the area wide study fee memo states when something qualifies as a minor impact, DelDOT indicates that a party can pay an area wide study fee and in addition to that fee the Applicant would be required to improve Banks Road in front of the property to its functional classification including two 11 foot travel lanes and five foot shoulders for Banks Road; that there are nine items in the land use docket; that Creekside submitted a letter of concern that has three points to address, first was the increase in traffic and DelDOT has noted that the traffic impact would be minor; that the second was the buffer between the two developments, which will be the 30 foot landscape buffer; that several of the properties have fences that exist; that they requested more details and information on the buffer; that the applicant did not want to create a double fence situation; that the applicant proposed to take the landscape plan and start it out more mature than required to be a good neighbor; that Creek Ends does not have it own corresponding buffer; that it was required prior to the need of that; that the third concern was the depth of the water in Guinea Creek to support a marina and dock; that the marina and dock would need to get approval from DNREC through their permitting process and they will assess the plans and determine if that is suitable for this area; that there was concern raised about a non-renewal of their insurance; that looking into that, it has nothing to do with this project; that there are a series of pictures from a property owner relating to flooding along Guinea Creek; that looking into that concern, the property is within the flood plain; that the proposed community has no proposed units within that flood plain; that this project is on the high side of the creek; that the other property is on the lower side of the creek.

A discussion was held about the rising of the creek, wetlands and the buffer. Mr. Ed Launay stated that there is a buffer of natural trees that was left from the edge of the creek to the area that was timbered; that the existing matured woods is about 75 to 100 feet wide; that as you get closer to Banks Road, it is a bit wider up to 130 feet or so; that there is a 30 foot buffer from the tidal line; that there is a 100 foot buffer also proposed.

Mr. Rieley expressed concerns of incidents within the two years in the same

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Hearing/
CZ2012 &
CU2449
(continued)**

general area, where there has been projects under construction and there has been significant rainfall that led to dirt and silt entering into the waterway. Mr. Rieley questioned what measures they would take to ensure that would not happen. Mr. Hutt replied that they would do all of the requirements that are required as necessary. Mr. Rieley commented that there will be less open space, and he is concerned about the waterway. Mr. Hutt replied that the open space for this project exceeds the requirement; that the other communities discussed preceded the County's buffer management plan; that these were put in place to address the concerns.

Ms. Gruenebaum questioned how they planned to dig without killing the roots of the trees; that it is incorporated into the resource code; that there would be fence and signage that would go along the buffer; that there will be fencing that will be placed. Mr. Rieley commented that if heavy equipment is running over the area, then the trees will be affected. Mr. Launay stated that he is not sure that there will be a lot of bulldozers there.

Mr. Lloyd questioned if the applicant would be in favor of doing phasing for construction.

The Resource Buffer Ordinance was discussed; Mr. Whitehouse reported that this may be one of the first application since that Ordinance was put in place that the Council has seen.

Mr. Hutt stated that this site was carefully reviewed and planned; that it was determined that the site was not well situated for the construction of affordable housing options being it was 6/10 of a mile from the nearest collector road, but the developer wanted to commit to supporting affordable housing by contributing \$3,500 per building permit that's issued to the Sussex County Housing Trust Fund to help affordable housing; that the Applicant is proffering a \$500 contribution to the Indian River Fire Company per building permit issued and an additional \$10 per month per unit contribution to be made to the Indian River Fire Company or ambulance company possibly collected by the Property Owners Association; that the recommended conditions from the Planning Commission included conditions A-Q; that there was a requested change to condition A; that the last two sentences are proposed to be deleted; that this is to make sure that it is clear; that the other changes proposed are to change it to condominium/property owners association.

Ms. Gruenebaum questioned the history of the creek and frequency of flooding.

Mr. Lloyd questioned the use of a temporary swale and discussed the stormwater ponds.

Public comments were heard.

Mr. Calvin Wayne Miller spoke in opposition of the applications; that his

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Hearing/
CZ2012 &
CU2449
(continued)**

wife's family has owned property for over 100 years near this location; that the pollutants and yard chemicals are going to make their way into the creek; that he does not see a way that can be stopped; that the property did have wildlife on it at one point in time; that Banks Road has been paved several times and it is a slick road when it rains; that there is a curve that is blind; that you cannot see around the curve; that there is not enough room to slow a car down when it is raining; that he believes that the only concern is making a profit and running away.

Mr. Steven Miller spoke in opposition of the applications; that a concern that he has is a bunch of trash flowing into his property; that he would request putting a privacy fence between the properties; that it is very grown up and thick right now; that it is about 30 acres; that he camped out in there last winter; that whitetail deer make their beds in the area where the proposed development is located; that the deer will push over into their land; that there will be a lot of deer that will get sick; that the 1962 flood went across Banks Road.

Ms. Eul Lee spoke about the application; that the trees by the wetlands will die over time; that the trees that stand today will become ghost trees; that the traffic on Banks Road is terrible; that there are subdivisions in the area that have been approved; that if this road is widen only in front of the community, what about the rest of Banks Road; that the density that the applicant presented of the neighboring communities do not tell the whole story.

**M 154 25
Defer
Action/
CZ2012**

The Public Hearing and public record were closed for both applications.

A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS" for the reasons given by Planning & Zoning.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 155 25
Defer Acton/
CU2449**

A Motion was made by Ms. Gruenebaum, seconded by Mr. Lloyd to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLINGS (116 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.57 ACRES, MORE OR LESS" for the reasons and

conditions given by Planning & Zoning.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 156 25
Adjourn**

**A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to adjourn
at 4:09 p.m.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Respectfully submitted,

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

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