

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 14, 2019**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 14, 2019, 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>Irwin G. Burton III</b>	<b>Vice President</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>John L. Rieley</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 235 19  
Approve  
Agenda**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to amend the agenda by deleting "SBA (Small Business Administration) Awards" and to approve the Agenda, as amended.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Minutes**

The minutes of Regular Meeting on April 30, 2019 and the minutes of the Budget Workshop on May 7, 2019 were approved by consent.

**Public  
Comments**

**Correspondence**

Letter of appreciation from Love INC of Mid-Delmarva in appreciation of the grant to Code Purple.

**Public  
Comments**

**Public Comments**

Jim Martin talked about the affordable housing crisis in Sussex County. He announced the formation of the Affordable Housing Work Group, and commented on the scheduled May 21st public forum on housing issues that the County is hosting.

Mr. Moore read public comment submitted by Howard Gorrell, who was in attendance. In his written comments, Mr. Gorrell referenced Title II of

Public  
Comments  
(continued)

the American with Disabilities Act of 1992, 42 U.S.C. § 12132: 28 CFR § 35.107 and 28 CFR § 35.106 and he asked that the County comply with these two sections. In his written comments, Mr. Gorrell also commented on growth in the County.

Michelle Williams commented on the need for workforce housing / tiny house communities. Ms. Williams submitted an information sheet on tiny house communities.

Paul Reiger commented on the need for zoning regulations relating to animal counts on properties with less than 5 acres.

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

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet May 20<sup>th</sup> at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. Brandy Nauman, Sussex County Fair Housing Compliance Officer, and Lisa Sturtevant, Lisa Sturtevant & Associates (LSA), will be discussing "*Affordable Housing Needs in Sussex County.*" The Conference Planning Subcommittee will also meet at 11:30 a.m. A copy of the agenda for each meeting is attached.

2. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Saddle Ridge – Phase 2 received Substantial Completion effective April 29<sup>th</sup>.

3. Steve Hickman

It is with sadness that we note the passing of County pensioner Steve Hickman on Saturday, April 27<sup>th</sup>. Mr. Hickman began his career with Sussex County in March 1978 and retired from SCRWF as a Pump Station Tech III in October 2010 with 32 years of service. We would like to extend our condolences to the Hickman family.

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

Delaware  
State  
Police/  
Lease  
Extension

Jim Hickin, Airport Manager, reported that the Delaware State Police and the State of Delaware, acting through the Department of Homeland Security, currently lease Lot G at the Delaware Coastal Airport. The initial ten year term will expire June 23, 2019 and there are two, five-year options to extend. They have requested to exercise the first extension option. The State Police use the State-owned hangar on the property to house and operate their Aviation South Unit. The hangar also houses some non-

(continued) aviation assets used by the State Police in Sussex County.

**M 236 19** A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that the  
**Approve** Sussex County Council approves the State of Delaware of Homeland  
**Lease** Security's request to extend the ground lease for Lot G at Delaware Coastal  
**Extension/** Airport for an additional five-year period, ending June 23, 2024.  
**Delaware**

**State**  
**Police**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Wilson, Yea; Mr. Burton, Yea;**  
**Mr. Vincent, Yea**

**Western**  
**Sussex**  
**Trans-**  
**mission**  
**Facilities**

Hans Medlarz, County Engineer, presented the bid results for the Western Sussex Transmission Facilities: Route 13 Force Main Project, Project 18-12, Contracts 1 and 2.

**M 237 19**  
**Award**  
**Contract/**  
**Western**  
**Sussex**  
**Trans-**  
**mission**  
**Facilities**  
**Contract 2**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that Contract 18-12, Contract 2, Western Sussex Transmission Facilities – Market Street Gravity Sewer, be awarded to Pact One, LLC, for their base bid of \$1,791,135.00 and Alternate Bid items D-1, D-2, D-3 and D-4 in the amount of \$272,120.00, for a total bid of \$2,063,255.00, subject to the City of Seaford and DNREC concurrence.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Wilson, Yea; Mr. Burton, Yea;**  
**Mr. Vincent, Yea**

**M 238 19**  
**Award**  
**Contract/**  
**Western**  
**Sussex**  
**Trans-**  
**mission**  
**Facilities/**  
**Contract 1**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that Contract 18-12, Contract 1, Western Sussex Transmission Facilities – Route 13 Forcemain, be awarded to A-Del Construction Co., Inc. for their Base Bid of \$2,990,111.00, and Alternate Bid Item D-2 in the amount of \$234,709.00, for a total bid of \$3,224,820.00.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Wilson, Yea; Mr. Burton, Yea;**  
**Mr. Vincent, Yea**

**Engineer**  
**of Record**  
**Reaffirma-**  
**tion**

Hans Medlarz, County Engineer, presented the Engineering Department's recommendations for reaffirmation of GHD Inc. as Engineer of Record for South Coastal Regional Wastewater Facility (SCRWF) and the projects directly associated with the City of Rehoboth Beach Wastewater WTF, and reaffirmation of Whitman Requardt and Associates, Inc. (WRA) as

(continued) **Engineer of Record for NCPA wastewater treatment facilities.**

**M 239 19**  
**Reaffirm**  
**WR&A/**  
**Engineer**  
**of Record/**  
**North**  
**Coastal**  
**Area**  
**Waste-**  
**water**  
**Facilities**

**A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that Council approve the reaffirmation of Whitman, Requardt & Associates, Inc. of Baltimore, Maryland, as Engineer of Record for the North Coastal Planning Area Wastewater Facilities and extend the existing Base Agreement for an additional five-year period through June 30, 2024.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 240 19**  
**Reaffirm**  
**GHD/**  
**Engineer**  
**of Record/**  
**SCRWF**  
**and**  
**City of**  
**Rehoboth**  
**Beach WTF**

**A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that Council approves the reaffirmation of GHD, Inc., of Bowie, Maryland, as Engineer of Record for the South Coastal Wastewater Facility and County projects directly associated with the City of Rehoboth Beach Wastewater Treatment Facility, extending the existing Base Agreement for an additional five-year period through June 30, 2024.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

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

**Hans Medlarz, County Engineer, presented Change Order 2 for the FY 2019 General Labor & Equipment Contract, Project 19-01. In April 2018, the FY 2019 General Labor & Equipment Contract was awarded to George & Lynch, Inc. of Dover. Change Order 2, in the amount of \$140,000.00, is to fund two emergency repairs and two projects with expanded project scopes related to differing site conditions.**

**M 241 19**  
**Approve**  
**Change**  
**Order**  
**No. 2/**  
**General**  
**Labor &**  
**Equipment**  
**Contract**

**A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2 for Contract #19-01, FY 2019 General Labor & Equipment, in the amount of \$140,000.00, be approved, for emergency repairs and expanded project scopes due to differing site conditions.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Department of Environmental Services Control Cabinet Upgrades/ Bid Results**      **Hans Medlarz, County Engineer, presented the bid results for the Department of Environmental Services Control Cabinet Upgrades, Project M19 – 11. The invitations to bid included two bid packages; Bid A included the PLSCs (programmable logic controllers) and other high-tech equipment and Bid B included the hardware and wiring to install the PLSC equipment. Mr. Medlarz reported that only one bid was received, from United Electric Supply, and that the Engineering Department recommends award of both bid packages in the total bid amount of \$369,239.38.**

**M 242 19 Award Bid/ Department of Environmental Services Control Cabinet Upgrades**      **A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that Contract M19-11, Division of Environmental Services Control Cabinet Upgrades, be awarded to United Electric Supply of Dover, Delaware, for Bid Package A and B, for a total bid of \$369,239.38.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Miscellaneous Engineering Consultant Selection**      **Hans Medlarz, County Engineer, presented the bid results for Consultant Selections RFP 19-22, Miscellaneous Engineering Services (5-Year Professional Service Contracts). Proposals received for RFP 19-22 were evaluated based on approved consultant rating criteria. The Selection Committee met and discussed the proposals and rating criteria; thereafter, formal interviews were scheduled for four of the firms. Mr. Medlarz reported that it is the recommendation of the Selection Committee that Council authorize the Engineering Department to negotiate and execute five-year professional service agreements for Miscellaneous Engineering Services with the three highest ranking firms: DBF, GMB and KCI. It was noted that, as needed, the future award of project-based contracts performed under these base service agreements will be brought to Council for authorization in accordance with County policy.**

**M 243 19 Approve Miscellaneous Engineering Consultant Selections**      **A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Consultant Selection Committee, that the Sussex County Council approves the selection of Davis, Bowen & Friedel (DBF), George Miles and Buhr (GMB) and KCI Technologies, Inc. (KCI) to provide Miscellaneous Professional Services to include but not limited to survey, planning, environmental assessment, engineering design, construction inspection, value engineering, and other services, as needed, and to negotiate Base Professional Service Agreements for a five (5) year period effective July 1, 2019 and ending on June 30, 2024.**

**Motion Adopted:      5 Yeas.**

**M 243 19  
(continued)**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Rules**

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

**Public  
Hearing/  
Proposed  
Frankford  
Business  
Park  
Expansion  
of the  
SCUSSD**

**A Public Hearing was held to consider the Proposed Frankford Business Park Expansion of the Sussex County Unified Sanitary Sewer District (Dagsboro/Frankford Area).**

**John Ashman, Director of Utility Planning, reported that the annexation request was made by Plitko, LLC on behalf of their clients, Chesapeake Plumbing & Heating, for Parcels 433-11.00-21.00 and 21.02. The expansion would consist of 20.34 acres, more or less. The Engineering Department is recommending that several small parcels also be included in the annexation to maintain uniform boundary. No connection will be provided for them at this time, so they will not be billed. It is proposed that the project will connect to existing infrastructure installed by the County and an Infrastructure Use Agreement will be required. The property owners will be responsible for System Connection Charges of \$6,360.00 per EDU based on current rates.**

**Mr. Ashman reported that, to date, no correspondence has been received in support of or in opposition to the inquiry. He noted, however, that there was one inquiry as to the annexation of their parcel at this time. The Engineering Department has offered to include this parcel (Wesley Hayes, Jr. parcel), which is contiguous, if the party desires; however, connection would be delayed until infrastructure becomes available at Delaware Avenue Extended.**

**Public comments were heard.**

**Wesley Hayes, Jr. expressed interest in the inclusion of his property (19.53 acres) in the annexation. He stated that he does have safety concerns with drainage along the roadway and traffic travelling on the wrong side of the road to avoid flooding on the road. Mr. Hayes also expressed other traffic concerns. Mr. Hayes stated that he is in support of his property being included in the annexation.**

**There were no additional public comments.**

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

**M 244 19  
Adopt  
R 011 19**

**A Motion was made by Mr. Burton, seconded by Mr. Rieley, to Adopt Resolution R 011 19 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE PARCELS 433-11.00-21.00, 21.01, 21.02, 22.00, 23.00 AND 19.00 ON THE EAST SIDE OF DUPONT BOULEVARD THE PARCELS ARE LOCATED IN THE DAGSBORO**

**M 244 19  
Adopt  
R 011 19  
(continued)**

**HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE” (FRANKFORD BUSINESS PARK EXPANSION).**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
Proposed  
Lighthipe  
Expansion  
of the  
SCUSSD**

**A Public Hearing was held to consider the Lighthipe Expansion of the Sussex County Unified Sanitary Sewer District (Bethany Beach Area).**

**John Ashman, Director of Utility Planning, reported that the expansion was requested by Davis Bowen & Friedel on behalf of their clients, Convergence Communities for Parcel 132-17.00-12.00. The front half of the project is near completion and the final step of annexation into the district was never confirmed by the consulting engineers; apparently their request and check were lost in the mail. The property owners will be responsible for System Connection Charges of \$6,360.00 per EDU based on current rates.**

**Mr. Ashman reported that no correspondence has been received to date regarding the proposed expansion.**

**Public comments were heard.**

**Jack Kemmerzell raised questions about the cul-de-sac area, rainwater run-off, and setbacks.**

**There were no additional public comments.**

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

**M 245 19  
Adopt\  
R 012 19**

**A Motion was made by Mr. Burton, seconded by Mr. Rieley, to Adopt Resolution No. R 012 19 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE THE LIGHTHIPE SUBDIVISION ON THE NORTH SIDE OF MUDDY NECK ROAD, THE PARCELS ARE LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE” (LIGHTHIPE EXPANSION).**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Public Hearing/  
Proposed Ordinance  
Regarding  
Cluster Subdivisions**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE IV, SECTION 115-25 OF THE CODE OF SUSSEX COUNTY REGARDING CLUSTER SUBDIVISIONS”.**

**The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on April 11, 2019 at which time the Commission recommended approval.**

**(See the minutes of the Planning and Zoning Commission dated April 11, 2019.)**

**Mr. Burton read a prepared statement into the record, commenting on the background of and the need for the Proposed Ordinance.**

**Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, presented an overview of the Proposed Ordinance.**

**Ms. Cornwell reported that nineteen (19) letters have been received in support of the Proposed Ordinance and one (1) letter received in opposition.**

**Mr. Robertson presented information on the background of the current Cluster Subdivision Ordinance, i.e. how it was adopted and how it was implemented. He reported that there are two types of cluster subdivisions: the AR-1 cluster subdivision and the Environmentally Sensitive Developing Area (now known as Coastal Area) cluster subdivision. Mr. Robertson noted, however, that the Proposed Ordinance has no impact on development in the Coastal Area; within the Coastal Area, there is no requirement that the lot sizes or the design of the subdivision be superior to a subdivision with standard 3/4 acre lots (as in the case of an AR-1 Cluster).**

**Mr. Robertson discussed the current and recommended AR-1 Cluster Subdivision requirements. He reported that the current Cluster Subdivision Ordinance was adopted in the early 2000’s and it was required by the Comprehensive Plan in force at the time; that it effectively shrunk the size of the lots in exchange for a subdivision having a certain amount of continuous open space, with the result being a better design than would ordinarily result from a standard three-quarter-acre per lot subdivision or 20,000 square foot lot subdivision; that the Code stated a superior design is needed but did not give any criteria as to what superior design meant; that Ordinance No. 2024 tried to introduce a design process where a developer starts with a usable open space, whether it be trees next to a park or next to water, and then design around the open space with a good design and not start with how many lots you could get; that the Proposed Ordinance went through the Planning and Zoning Commission with it being a requirement for a yield plan and a design with specific superiority requirements; that the Proposed Ordinance went before the County Council who, following**



**Public Hearing/  
Proposed Ordinance  
Regarding Cluster Subdivisions  
(continued)**

discussion, voted to make it optional which made two paths and kept it essentially the way the Ordinance was; that County Council also kept the requirement of the yield plan with the superior design requirements as an option; that the option allows for an expedited application process, which was a valuable incentive at the time because there was a two-year waiting list for applications to reach the Planning and Zoning Commission; that ultimately there were no applications submitted under the optional route under superior design subdivision; that what the Proposed Ordinance does is take the Code back to what the Planning and Zoning Commission approved in November 2008; that all cluster subdivisions (with the exception of those in the Coastal Area) would have to meet the requirements; and that if it is a standard subdivision, it will take the normal course. Mr. Robertson noted that the Proposed Ordinance does not add any new criteria that is not stated in the Code now; it just makes all the criteria apply to everyone, i.e. one path for everyone to follow.

Public comments were heard.

The following spoke in support of the Proposed Ordinance: Judy Rolfe, Anna vonLindenberg, Valerie Faden, Christina Darby (Friends of the Nanticoke River), Chris Bason (Delaware Center for the Inland Bays), Rich Borrasso (SARG), Sue Claire Harper, Jeanette Akhter, Frances Hart (Inland Bays Foundation), David Jaeger, Chris Edginton, and Robert Viscount.

Comments in support of the Proposed Ordinance referenced the low mean elevation of the County, sea level rise, environmental protection, the need for mandatory superior design standards, quality of life, property values, buffers, air and water quality, conservation of farmland, open space and resource protection, and the vision and goals of the 2018 Comprehensive Plan. Several people in support of the Proposed Ordinance expressed disappointment that it does not apply to the Coastal Area.

Chrissy Steele (Sussex County Association of Realtors) stated that SCAOR was neither in support of or opposed to the Proposed Ordinance; however, SCAOR asks for more time to consider and form an opinion and therefore, asks the Council to consider an extension of the public comment period.

The following spoke in opposition to the Proposed Ordinance: Bobby Horsey, Robert Tunnell III, Jim Eriksen (Solutions IPeM), Joe Conaway (SEDAC), and Kenneth Usab (Morris & Ritchie).

**M 246 19  
Recess**

At 1:15 p.m., a Motion was made by Mr. Burton, seconded by Mr. Rieley, to recess until 1:30 p.m. (at which time the Public Hearing would continue).

Motion Adopted: 5 Yeas.



**M 248 19  
(continued)**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Absent;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU 2168**

**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 AMENDMENTS TO CONDITIONS OF APPROVAL OF CU 1645 (ORDINANCE NO. 1843) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (Conditional Use No. 2168) filed on behalf of Michael Mears (Tax I.D. No. 133-10.00-10.16) (911 Address: 22159 Paradise Road, Georgetown).**

**The Planning and Zoning Commission held a Public Hearing on this application on April 11, 2019 at which time the Commission recommended approval to amend Condition 1 to state that there shall be no more than 14 business vehicles or trailers parked at any one time and to amend Condition 7 to state that there shall be no more than 14 non-relative employees.**

**(See the minutes of the Planning and Zoning Commission dated April 11, 2019.)**

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

**The Council found that Michael and Michelle Mears were present on behalf of their application. Mr. and Mrs. Mears stated that they have two trailers, an equipment trailer and a landscape trailer; that they need room to park additional vehicles and trailers if they wish to grow and add more employees; that they propose to have 10 vehicles and 4 trailers; that they store supplies in the enclosed trailer; that they are requesting permission to have up to 14 non-relative employees; that they increased the size of the driveway to accommodate additional vehicles; and that they added a privacy fence.**

**Public comments were heard.**

**Paul Reiger stated that he supports the application. He noted, however, that the County maps are not current.**

**There were no comments in opposition to the application.**

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

**M 249 19  
Adopt  
Ordinance/  
CU 2168**

**A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to Adopt Ordinance No. 2653 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR- 1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AMENDMENTS TO CONDITIONS OF APPROVAL OF CU 1645 (ORDINANCE NO. 1843) TO BE LOCATED**

**M 249 19  
Adopt  
Ordinance/  
CU 2168  
(continued)**

**ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (Conditional Use No. 2168) filed on behalf of Michael Mears, as follows: amending Condition 1 to state that there shall be no more than 14 business vehicles or trailers parked at any one time and amending Condition 7 to state that there shall be no more than 14 non-relative employees for the reasons and stipulations stated in the Motion.**

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

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Absent;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU 2167**

**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 OPEN OUTDOOR SALES (YARD SALE) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.073 ACRES , MORE OR LESS” (Conditional Use No. 2167) filed on behalf of Karen Ann Mueller (Tax I.D. No. 234-23.00-10.00) (911 Address: 31977 Eagle Lane, Millsboro).**

**The Planning and Zoning Commission held a Public Hearing on this application on April 11, 2019 at which time action was deferred. On April 25, 2019, the Commission recommended denial.**

**(See the minutes of the Planning and Zoning Commission dated April 11 and 25, 2019.)**

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

**Ms. Cornwell reported that two letters were received in opposition to the application.**

**The Council found that John Roach with John B. Roach Engineering was present on behalf of the application with Karen Mueller, Steven O’Donelley, and Efrem Phillips. They stated that they were having yard sales on the property (adjacent to Route 24); that they were weekend yard sales; that there were issues with traffic; that County regulations only allows three yard sales per year; that they wish to have more than three and they filed the Conditional Use application; that they have a petition signed by people supporting the yard sales (submitted into the record); that the yard sales are for income for the family; that they have placed signs stating No Parking along Route 24; and that they have talked with DelDOT about an entrance. Mr. Phillips submitted photographs showing that “it is a well organized yard sale”.**

**Public  
Hearing/  
CU 2167  
(continued)**

Ms. Cornwell clarified that DelDOT did not require a Traffic Impact Study; however, she noted that a commercial entrance permit would be required.

There were no public comments in support of the application.

John Haldeman, an adjacent property owner, spoke in opposition to the application. He expressed concern regarding access to his property by emergency services; that they are unable to stop parking along the roadway; that there are wetlands on the site and the parking area is proposed in the wetlands; that EPA has visited the site after cement, etc. was being used to fill in the wetlands; that there is an overflowing cesspool on the property; that there are two 18-wheel trailers on the property being used for storage for the yard sales; that, at times, he could not receive deliveries to his own property because the lane was blocked; that the road/infrastructure cannot handle the number of cars; that the Applicant has not talked with area neighbors; and that area neighbors do not want it.

There were no additional public comments.

**M 250 19  
Adopt  
Proposed  
Ordinance/  
CU 2167  
  
DENIED**

A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OPEN OUTDOOR SALES (YARD SALE) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.073 ACRES , MORE OR LESS” (Conditional Use No. 2167) filed on behalf of Karen Ann Mueller.

Motion Denied: 4 Nays, 1 Absent.

Vote by Roll Call: Mr. Hudson, Nay; Mr. Rieley, Nay;  
Mr. Wilson, Nay; Mr. Burton, Absent;  
Mr. Vincent, Nay

**Recusal**

Mr. Rieley recused himself from the next public hearing and left the meeting.

**Public  
Hearing/  
CZ 1875**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.317 ACRES, MORE OR LESS” (Change of Zone No. 1875) filed on behalf of L. W. & J. T. Mitchell Family, LP. (Tax I.D. No. 335-8.00-37.00 (portion of) (911 Address: None Available).

**Public  
Hearing/  
CZ 1875  
(continued)**

**The Planning and Zoning Commission held a Public Hearing on this application on April 11, 2019 at which time the Commission deferred action. On April 25, 2019, the Commission recommended approval of the application.**

**(See the minutes of the Planning and Zoning Commission dated April 11 and 25, 2019.)**

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

**The Council found that David Hutt, Attorney, was present with Jeff Haymer, Principal of Jeff-Kat, LLC; Ring Lardner with Davis Bowen & Friedel; and Bob and Jerry Mitchell, Applicants and property owners. They stated that they seek to rezone 1.3 acres of land; that the Applicant is Jeff-Kat, LLC, the owner of an adjacent property and contract purchaser of the property; that the subject property is located in back of the Big Oyster restaurant and the First Baptist Church; that the Big Oyster property is zoned C-1; that other commercial zonings and uses exist in the area; that housing developments and a school are located in the area; that the proposed site is currently vacant; that the goal of this application is to provide the local restaurant and brewery (Big Oyster) with the opportunity to be able to adequately park and accommodate its customers; that in the 2018 Comprehensive Plan Update, the area for the proposed rezoning is identified as being part of the Coastal Area, a growth area; that the proposed project is consistent with the guidelines for projects within the Coastal Area; that the Delaware Strategies for State Policies and Spending identify the property as an Investment Level 1 Area; that water will be provided by the Lewes Board of Public Works and sewer service will be provided by Sussex County; that the property is located immediately adjacent to several residential communities and along the King's Highway (Route 9) corridor; that the proposed project is consistent with the character and trend of development in the area and will not adversely affect the neighboring properties; that the proposed use is compatible with the area; that a Traffic Impact Study was not required by DelDOT; that they will be good neighbors to the adjacent church and will provide appropriate screening/fencing; and that, if approved, the 1.3 acres would be included within the boundaries of the Big Oyster parcel.**

**Mr. Hutt referenced the letter from the City of Lewes and he addressed the City's concerns.**

**Public comments were heard.**

**Kenneth Meekum, a Trustee of the First Baptist Church, stated that the church property adjoins the rear of the subject property; that they wish to preserve the sanctity of the church; and that they ask that screening be considered.**

**There were no additional public comments.**

**(continued) The Public Hearing and public record were closed.**

**M 251 19**  
**Adopt**  
**Ordinance**  
**No. 2654/**  
**CZ 1875**

**A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to Adopt Ordinance No. 2654 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.317 ACRES, MORE OR LESS” (Change of Zone No. 1875) filed on behalf of L. W. & J. T. Mitchell Family, LP.**

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

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Absent;  
Mr. Wilson, Yea; Mr. Burton, Absent;  
Mr. Vincent, Yea**

**Mr. Rieley rejoined the meeting.**

**Grant**  
**Requests**

**Mrs. Jennings presented grant requests for the Council’s consideration.**

**M 252 19**  
**Council-**  
**manic**  
**Grant**

**A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to give \$1,200.00 (\$600.00 each from Mr. Hudson’s and Mr. Burton’s Councilmanic Grant Accounts) to the Greater Lewes Foundation for The History Book Festival.**

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

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Absent;  
Mr. Vincent, Yea**

**M 253 19**  
**Council-**  
**manic**  
**Grant**

**A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to give \$600.00 from Mr. Burton’s Councilmanic Grant Account to Slaughter Neck Community Action Organization for playground equipment.**

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

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Absent;  
Mr. Vincent, Yea**

**M 254 19**  
**Council-**  
**manic**  
**Grant**

**A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to give \$2,000.00 from Mr. Vincent’s Councilmanic Grant Account to Steps for Hope for operating expenses.**

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

**M 254 19  
(continued)**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Absent;  
Mr. Vincent, Yea**

**Introduction  
of Proposed  
Ordinances**

**Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 18.11 ACRES, MORE OR LESS” (Conditional Use No. 2180) filed on behalf of Robert J. Palmer and Laura M. Hudson (Tax I.D. No. 133-3.00-1.00 and 1.10) (911 Address: 23318 Cedar Lane, Georgetown).**

**Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (209 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 30.15 ACRES, MORE OR LESS” (Conditional Use No. 2181) filed on behalf of Mitchell Family, LLC (Tax I.D. No. 335-8.00-37.00 (portion of) (911 Address: None Available).**

**Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL AUTOMOTIVE REPAIR AND DEALER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 2.87 ACRES, MORE OR LESS” (Conditional Use No. 2182) filed on behalf of Samuel G. Thomas (Tax I.D. No. 135-20.00-159.01) (911 Address: 23371 Springfield Road, Georgetown).**

**Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE FACILITY WITH OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 9.167 ACRES, MORE OR LESS” (Conditional Use No. 2183) filed on behalf of Brent & Lisa Hershey (Tax I.D. No. 235-15.00-26.07) (911 Address: 14374 Clyde’s Drive, Milton).**

**Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 11.58**



**Introduction  
of Proposed  
Ordinances  
(continued)**

**ACRES, MORE OR LESS” (Change of Zone No. 1886) filed on behalf of Mitchell Family, LLC (Tax I.D. No. 335-8.00-37.00 (portion of) (911 Address: None Available).**

**Mr. Hudson introduced the 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 30.15 ACRES, MORE OR LESS” (Change of Zone No. 1887) filed on behalf of Mitchell Family, LLC (Tax I.D. No. 335-8.00-37.00 (portion of) (911 Address: None Available).**

**Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.43 ACRES, MORE OR LESS” (Change of Zone No. 1888) filed on behalf of Mitchell Family, LLC (Tax I.D. No. 335-8.00-37.00 (portion of) (911 Address: None Available).**

**Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.771 ACRES, MORE OR LESS” (Change of Zone No. 1889) filed on behalf of Air Fish Automotive (Tax I.D. No. 332-1.00-72.00 (portion of) (911 Address: 11125 National Boulevard, Laurel).**

**The Proposed Ordinances will be advertised for Public Hearing.**

**M 255 19  
Go Into  
Executive  
Session**

**At 3:22 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Hudson, to recess the Regular Session and go into Executive Session**

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

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Absent;  
Mr. Vincent, Yea**

**Executive  
Session**

**At 3:22 p.m., an Executive Session of the Sussex County Council was held in the Council Chambers to discuss matters relating to Collective Bargaining and Land Acquisition. The Executive Session concluded at 3:27 p.m.**

**M 256 19**      **At 3:27 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Wilson, to**  
**Reconvene**      **come out of Executive Session and to reconvene the Regular Session.**

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

**Vote by Roll Call:      Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                                 **Mr. Wilson, Yea; Mr. Burton, Absent;**  
                                 **Mr. Vincent, Yea**

**Action**              **There was no action on Executive Session matters.**

**M 257 19**      **A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to adjourn at**  
**Adjourn**        **3:28 p.m.**

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

**Vote by Roll Call:      Mr. Hudson, Yea; Mr. Rieley, Yea;**  
                                 **Mr. Wilson, Yea; Mr. Burton, Absent;**  
                                 **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.}*