

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 21, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 21, 2019, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Irwin G. Burton III	Vice President
Douglas B. Hudson	Councilman
John L. Rieley	Councilman
Samuel R. Wilson Jr.	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. Vincent.

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 258 19
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to amend the Agenda by deleting “Approval of Minutes”, 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**

**Public
Comments**

Public Comments

Paul Reiger commented on footer inspections/setbacks and he questioned when a procedure will be implemented. Mr. Reiger also commented on commercial kennel applications as well as the need for simultaneous pool and fence application approvals.

Dan Kramer commented on the signs used for posting zoning applications.

Jim Martin commented on (1) the affordable housing crisis in Sussex County and the need for zoning changes, (2) the public forum on housing issues scheduled for May 21st, and (3) the need for a location for car dwellers to park.

DJ Hughes commented on DelDOT’s CTP Projects.

**Proclamation/
Community
Action
Month**

A Proclamation entitled “Proclaiming the Month of May as *Community Action Month*” was presented to Bernice Edwards, Executive Director of the First State Community Action Agency, and Brad Whaley, Director of Community Development and Housing for Sussex County.

**Fiscal
Year 2020
Budget
Presentation**

Mr. Lawson and Mrs. Jennings presented the proposed \$185.8 million budget for Fiscal Year 2020.

FY 2020 Budget Highlights

- General Fund Budget up \$6.8 million
 - \$5.0 million increase in transfers - \$10 million to Capital and \$5 million to Pension
 - \$781,000 in the Paramedic Department
 - \$400,000 in the Information Technology Department
 - \$287,000 in the Community Development Department
 - \$201,000 in the Emergency Preparedness Department
- \$19.0 million in reserves being used for one-time expenses
- Governmental capital plan without General Fund debt - \$21.4 million
- No change in the County property tax rate
- Fee Changes
 - Change in Register of Wills fees
 - Increase in private road plan review and inspection fees
 - New sewer assessment rates for the Dewey and Henlopen Acres sewer areas
 - Final phase-in increase for septage hauler rate

FY 2020 Budget Focus

- Public Safety – 29.2 million – 35.8% of the General Fund Budget
- Wastewater Infrastructure - \$34.6 million Sewer Capital Budget
- Economic Development
 - \$12.7 million for Airport and Business Park Infrastructure
 - \$2.0 million for Broadband Infrastructure
 - \$166,000 for economic development initiatives

Budget Summary

- General Fund - \$81,460,499
- Capital Projects – General Fund - \$21,366,500
- Water & Sewer Funds - \$40,803,693
- Capital Projects – Water & Sewer - \$34,580,000
- Pension - \$7,553,724

General Fund Highlights

- No increase in taxes; reserves being used for one-time expenses
- Taxable assessments increased 2.6 percent, producing \$400,000 in revenue
- Revenue, excluding transfers, has increased 4.4 percent, or \$2.6 million
- Building-related revenue increased \$1.3 million

**Fiscal
Year 2020
Budget
Presen-
tation
(continued)**

Use of Appropriated Reserves

- **Capital Project Interfund Transfer - \$10,000,000**
- **Additional Pension Contribution - \$5,000,000**
- **Open Space - \$1,000,000**
- **Sports Complex Loan - \$1,500,000**
- **Economic Development Loan - \$500,000**
- **Economic Development Carryover - \$25,000**
- **Contingency - \$1,000,000**

Personnel Summary: 2 percent COLA; merits based on performance; 11 paid holidays with 2 floating holidays; health insurance costs are consistent with last year; pension – 28% of gross salaries, additional \$5 million contribution, continue 3% contribution for new hires.

Also reviewed was General Fund 5-Year Capital Projects – Expenditures: Engineering – 3 percent; Public Safety – 11 percent; Administration – 27 percent; Airport and Industrial Park – 59 percent.

Water and Sewer Highlights

- **No increase in sewer and water service charges**
- **No increase in connection fees**
- **Last phase-in increase for the septage disposal fee – 7.6 cents.**
- **New assessment rate of \$296.04 per EDU in Henlopen Acres and Dewey Beach sewer areas; this is an annual debt payment of almost \$1,200,000 to City of Rehoboth for 42 percent of their debt payment**
- **Sewer operational budget increased \$2.2 million**
 - **\$1.3 million increase in debt payments due to areas coming online**
 - **\$510,000 increase in employment costs**
 - **\$411,000 increase in transportation equipment**
- **Capital budget of \$34.6 million; \$218.2 million 5-year plan**
- **Will continue the 100-foot cap for residential customers that are current on their sewer bills**

Mr. Lawson advised that the budget and the accompanying budget presentation will be available on the County’s website. Public Hearings on the budget will be held on June 18, 2019. The public can comment in person on that date, or submit comments through the County’s website at budget@sussexcountyde.gov.

**Introduction
of Proposed
Budget
Ordinances**

Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2020”.

Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION

**Intro-
ductions
(continued)**

CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.

The Proposed Ordinances will be advertised for Public Hearing.

**DelDOT
CTP
Project
Update**

Jennifer Cinelli, Josh Thomas and Mark Lutz of DelDOT were in attendance to present Capital Transportation Plan (CTP) Project Updates, including the status of existing projects, new projects being introduced for FY 2021, and House Bill 66 and its impact on the CTP.

**Georgetown
Air
Services/
MOU**

Jim Hickin, Airport Manager, reported that Georgetown Air Services, LLC (GAS) provides aviation support services for Delaware Coastal Airport under a long-term lease arrangement. The lease, which expires in July 2036, includes Lot A3-2 on which the Old Terminal Building sits. In addition to 3,900 square feet of hangar space, the building has several offices. It was built in 1954 and sustained water damage to the roof and interior walls and windows, creating structural safety concerns. As per the lease, the County is responsible for maintenance and repair of the damage, which is estimated at \$450,000. The Engineering Department has analyzed several options and believes better aeronautical services could be provided at a lower cost than repairing the 65-year old building. There is documented demand for hangar space for large corporate jets along the Eastern Seaboard, including from locally-based aircraft operators. Lot A3-2 provides an ideal location for redevelopment due to existing apron access, minimal stormwater management issues, and few permitting requirements. The Engineering Department has determined that the most cost-effective solution for Lot A3-2 is private redevelopment; this solution would replace 3,900 square feet of hangar space with 20,000 square feet capable of accommodating large corporate jet aircraft – a 400% increase; however, this property is current leased by GAS. To implement the plan, the County will have to amicably terminate GAS’s lease of Lot A3-2. GAS is interested if the County offers certain concessions resulting in a cost neutral overall solution. These concessions include reducing the basic rent from nine (9) cents per gallon of fuel sold to two (2) cents per gallon. The reduced rate will cover the rent for Lot A3-4 mentioned in the lease, currently used for GAS’s fuel farm. In addition, the term of the lease will be extended to coincide with the GAS lease for Lot C-1. The Engineering Department and GAS have drafted a Memorandum of Understanding outlining the steps necessary to accomplish the redevelopment (Ground Lease and Hangar Development) of Lot A3-2. If Council concurs, a Request for Proposals will be advertised soliciting competitive redevelopment proposals.

**M 259 19
Approve
MOU/
Georgetown
Air Services**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that the Memorandum of Understanding between Sussex County and Georgetown Air Services be approved, as presented, releasing Lot A3-2 from the lease in exchange for a reduction in basic rent and extension of terms and authorizing a Request for Proposals for the redevelopment of Lot A3-2.

**M 259 19
(continued)**

Motion Adopted: 4 Yeas, 1 Nay.

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

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for April 2019 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 197 troopers assigned to Sussex County for the month of April.

2. Holiday and Council Meeting Schedule

A reminder that County offices will be closed on Monday, May 27th, to observe the Memorial Day holiday. In addition, Council will not meet on Tuesday, May 28th. The next regularly scheduled Council meeting will be held on Tuesday, June 4th, at 10:00 a.m.

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

**LSA
Presen-
tation/
Sussex
County
Housing
Oppor-
tunities
and
Market
Evaluation
(HOME)**

Brandy Nauman, introduced Lisa Sturdevant of LSA, the County's Housing Consultant. LSA was selected following a RFP issued by the County to seek assistance from an outside consultant for the purpose of creating affordable housing opportunities in the County. Ms. Nauman reported that the study has been named the Housing Opportunities and Market Evaluation (HOME). LSA has been talking with stakeholders and has hosted focus group meetings. Ms. Sturdevant and other representatives of LSA reported on the project schedule and key findings on their assessment of housing needs in the County: there is a significant need for rental housing affordable to working households in Sussex County with incomes below \$35,000; the affordability level translates to homes (including apartments, that have rents of \$875 or less). In addition, there is a substantial gap in for-sale homes affordable to moderate-income households who can afford to pay up to \$200,000 for a home. Ms. Sturdevant reported on the next steps in the process: continue affordable housing analysis and stakeholder analysis, and determine affordable housing recommendations and a plan. A final presentation to Council will be made in September 2019. It was noted that the County and the Consultant, LSA, will host a public forum on housing issues on this date, May 9, 2019, beginning at 6:00 p.m.

**Grant
Requests**

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

M 260 19 Councilmanic Grant **A Motion was made by Mr. Hudson, seconded by Mr. Burton, to give \$500.00 from Mr. Hudson's Councilmanic Grant Account to Rehoboth Summer Children's Theatre for summer program expenses.**

Motion Adopted: 5 Yeas.

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

M 261 19 Councilmanic Grant **A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$2,250.00 (\$1,250.00 from Mr. Burton's Councilmanic Grant Account and \$1,000.00 from Mr. Wilson's Councilmanic Grant Account) to Downtown Milford for The Ladybug Festival.**

Motion Adopted: 5 Yeas.

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

M 262 19 Councilmanic Grant **A Motion was made by Mr. Rieley, seconded by Mr. Burton, to give \$900.00 (\$500.00 from Mr. Rieley's Councilmanic Grant Account and \$100.00 each from Mr. Burton's, Mr. Hudson's, Mr. Wilson's and Mr. Vincent's Councilmanic Grant Accounts) to the American Legion Auxiliary, Unit 28, for the Poppy Fund.**

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Ordinances **Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRE, MORE OR LESS" (Conditional Use No. 2184) filed on behalf of Linda Ann Yupco-Connors (Tax I.D. No. 334-11.00-15.00) (911 Address: 32260 Jimtown Road, Lewes).**

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.4516 ACRES, MORE OR LESS" (Conditional Use No. 2185) filed on behalf of Vincent Kinack (Tax I.D. No. 234-4.00-

Introduction of Proposed Ordinances (continued)	<p>42.00) (911 Address: 21167 Short Road, Harbeson).</p> <p>Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MOTOR VEHICLE SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.1657 ACRE, MORE OR LESS” (Conditional Use No. 2187) filed on behalf of Daniel Ostinvil (Tax I.D. No. 232-12.18-51.00) (911 Address: 31016 North Poplar Street, Laurel).</p> <p>Mr. Wilson 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-2 MEDIUM COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 2.41 ACRES, MORE OR LESS” (Change of Zone No. 1884) filed on behalf of ABC Storage, LLC (Tax I.D. No. 231-5.00-24.00 and 231-6.00-6.00 (portion of) (911 Address: 13049 and 13039 Seashore Highway, Georgetown).</p> <p>The Proposed Ordinances will be advertised for Public Hearing.</p>
M 263 19 Go Into Executive Session	<p>At 12:43 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to Collective Bargaining and Personnel.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea</p>
Executive Session	<p>At 12:45 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to Collective Bargaining and Personnel. The Executive Session concluded at 1:30 p.m.</p>
M 264 19 Reconvene Regular Session	<p>At 1:33 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to come out of Executive Session and to reconvene the Regular Session.</p> <p>Motion Adopted: 3 Yeas, 2 Absent.</p> <p>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Absent; Mr. Burton, Absent; Mr. Vincent, Yea</p>
E/S Action	<p>There was no action on Executive Session matters.</p>

Rules

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

Mr. Burton and Mr. Wilson joined the meeting

**Public
Hearing/
CZ 1881**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 71.754 ACRES, MORE OR LESS” (Change of Zone No. 1881) filed on behalf of Stephen Price Norman Revocable Trust (Lakelynnns) (Tax I.D. No. 134-19.00-13.03 and 134-18.00-38.00) (911 Address: 34703 Cider Lane, Frankford).

The Planning and Zoning Commission held a Public Hearing on this application on April 25, 2019 at which time action was deferred. On May 9, 2019, the Commission recommended approval with the following conditions:

- A. The maximum number of dwelling units shall not exceed 179, of which 41 shall be single-family lots and 138 shall be townhomes. Townhomes numbers 1 through 6 shall be relocated away from Lizzard Hill Road.**
- B. A homeowner’s association shall be formed to provide for the perpetual maintenance, repair, and replacement of buffers, stormwater management facilities, streets, amenities and other common areas.**
- C. All entrances, intersections, interconnections, roadways and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements or in accordance with any further modifications required by DelDOT based on its review of the Traffic Impact Study.**
- D. The RPC shall be served by Sussex County sewer. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- E. The RPC shall be served by central water for drinking water and fire protection, as required by applicable regulations.**
- F. 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 in a manner that is consistent with Best Management Practices.**
- G. Interior street design shall meet or exceed Sussex County’s street design requirements. There shall also be street lighting and sidewalks on at least one side of the streets within the RPC.**
- H. No wetlands shall be included within any individual lots. Any wetland buffers required by Section 115-93(B) shall be shown on the Final Site Plan. Non-tidal wetlands shall be maintained as non-disturbance areas with a minimum 25-foot buffer.**
- I. All amenities shall be completed and open to use by the residents of the development prior to the issuance of the 75th building permit.**

**Public
Hearing/
CZ 1881
(continued)**

- J. A 20-foot wide vegetated buffer shall be established along the perimeter of the site. This may include the existing trees.**
- K. If requested by the local school district, a school bus stop shall be provided by the entrance to the development, with the location and any related parking to be approved by the school district's transportation supervisor. The location of the bus stop area shall be shown on the Final Site Plan.**
- L. Road naming and addressing shall be subject to the review and approval of Sussex County Mapping and Addressing Departments.**
- M. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- N. The Final Site Plan shall include a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas; in addition, the Developer shall preserve as many trees as possible with all preserved tree areas shown on the Final Site Plan.**
- O. The Preliminary Site Plan and Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**
- P. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill to and from the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.**
- Q. Deep Pond Lane shall be constructed to the eastern property line of the project to promote interconnectivity with other lands.**
- R. Deed restrictions and / or covenants and condominium documents shall reference that agricultural activities exist nearby, and the Agricultural Protection Notice shall be included in the restrictions, covenants, and other documents.**

(See the minutes of the Planning and Zoning Commission dated April 25 and May 9, 2019.)

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

The Council found that David Hutt, Attorney was present with the Applicant, Stephen Norman. Also present were Zac Crouch of Davis, Bowen & Friedel and Ed Launey of Environmental Resource, Inc. Mr. Hutt provided a historical background of the property/project and he referenced a previously approved Change of Zone application for the site (2007) – an AR-1 to a GR with a RPC Overlay (265 units – density of 3.75 units per acre). Mr. Hutt stated that the project was never built and the RPC Overlay lapsed leaving the underlying GR zoning classification in place; that the ownership of the property and the project's engineer changed hands; that they are asking for a new RPC Overlay for the project; that the current proposal is for 179 units (138 townhouses and 41 single family lots); that the net density is 2.5 units per acre, which is 33 percent less density compared to the project approved in 2007; that the application site is comprised of two tax parcels; that in 2007, no Traffic Impact Study was required; however, Mr. Norman did commission a Traffic Impact

**Public
Hearing/
CZ 1881
(continued)**

Study which has been reviewed and approved by DelDOT; that a wetlands delineation has now been done and it has been reviewed and accepted by the Army Corps of Engineers; that there is an existing pond on the site; that buffers are proposed to protect the pond; that the existing house on the site will be reconstructed as a clubhouse; that a pool, tot lot and park are proposed; and that there will be adequate setbacks from the road for the townhouse. Mr. Hutt reviewed other residential developments in the area. Mr. Crouch reported on road improvements that are required as a result of the Traffic Impact Study, buffers around the wetlands, the existing pond on the site, water and sewer service, sidewalks, and compliance of the application with County ordinances (Chapter 99 Subdivision Code and the Environmentally Sensitive Development District).

Mr. Crouch referenced Condition A recommended by the Planning and Zoning Commission (“The maximum number of dwelling units shall not exceed 179, of which 41 shall be single-family lots and 138 shall be townhomes. Townhome numbers 1 through 6 shall be relocated away from Lizzard Hill Road.”). He stated that the Planning and Zoning Commission gave no defined reason for that condition and that they ask for flexibility to address that issue and work those six (6) townhouses within the development.

Mr. Hutt asked that the last sentence of Condition A be stricken; that they hope Council considers leaving those six units in the project and that when the project goes to Preliminary and Final Site Plan approval, to allow for the flexibility of Davis, Bowen & Friedel to maintain the tree and work within the existing conditions on the site, i.e. wetlands, and to align the intersection. Mr. Hutt noted that the name of the project has been changed from Lakelynnns to Milo’s Haven.

Public comments were heard.

There were no public comments in support of the application.

Lisa Massey and Tyler Hickman spoke in opposition to the application. They expressed concern about traffic, the road conditions of Lizzard Hill Road, and flooding and run-off. They stated that townhouses are out of character with the area and that GR zones should be preserved for its original purpose which is affordable housing.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 265 19
Defer
Action/
CZ 1881**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to defer action for further consideration on Change of Zone No. 1881 filed on behalf of Stephen Price Norman Revocable Trust (Lakelynnns).

Motion Adopted: 5 Yeas.

**M 265 19
(continued)**

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

**Public
Hearing/
CU 2171**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A DOG BAKERY WITH STORAGE AND WAREHOUSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.3981 ACRES, MORE OR LESS” (Conditional Use No. 2171) filed on behalf of Lisa St. Clair (Tax I.D. No. 234-21.00-213.00) (911 Address: 24500 Hollyville Road, Millsboro).

The Planning and Zoning Commission held a Public Hearing on this application on April 25, 2019 at which time action was deferred. On May 9, 2019, the Commission recommended approval with the following conditions:

- A. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- B. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- C. No more than seven (7) employees shall be permitted at the dog bakery.**
- D. All baking must be conducted indoors.**
- E. The site shall be subject to all DelDOT entrance and roadway requirements.**
- F. Handling and disposal of all waste from the dog bakery shall comply with all local, State and Federal laws, rules and regulations.**
- G. The dog bakery hours shall only be from 6:00 a.m. through 6:00 p.m. Monday through Friday. There shall not be any weekend hours.**
- H. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. The Final Site Plan shall clearly show the areas set aside for parking.**

(See the minutes of the Planning and Zoning Commission dated April 25 and May 9, 2019.)

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

The Council found that David Weidman, Attorney, was present with the Applicant, Lisa St. Clair. They stated that the Applicant operates Tail Bangers, a commercial dog bakery; that the business continues to grow and that the construction of a new building is planned; that due to growth, the Applicant needs to utilize a building in her back yard for storage and for baking; that there are ovens in the building; that it is a stop-gap solution until the new building is constructed; that other businesses are located in the area including heating and air, and two landscaping companies; that the Applicant employs approximately 50 people; that there is a shared driveway with the neighbor; that the neighbor operates a landscaping company; that

**Public
Hearing/
CU 2171
(continued)**

proposed hours are 7:00 a.m. to 5:00 p.m. Monday through Saturday; and that there would be no retail sales.

Public comments were heard.

There were no public comments in support of the application.

Leslie Stiles stated that she is not in opposition or in support of the application. She stated that she just wants reassurances since her residence is next door; that there is more activity going on at the site than stated by the Applicant; that there is noise coming from the site; that there are a lot of vehicles in and out of the site, including a DART bus and delivery trucks; that there are activities on the site for times beyond the proposed 7:00 a.m. to 5:00 p.m.; and that some barrier is needed between the commercial business and her residence. Frank Stiles expressed concern for the safety of his children and discussed the shared driveway.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 266 19
Add New
Condition**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to add a new condition to the conditions recommended by the Planning and Zoning Commission to read as follows: One directional sign shall be permitted not to exceed six (6) square feet in size.

Motion Adopted: 5 Yeas.

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

**M 267 19
Add New
Condition**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to add a new condition to the conditions recommended by the Planning and Zoning Commission to read as follows: No retail sales to occur on the site.

Motion Adopted: 5 Yeas.

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

**M 268 19
Adopt
Ordinance
No. 2655/
CU 2171**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2655 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A DOG BAKERY WITH STORAGE AND WAREHOUSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.3981 ACRES, MORE OR LESS" (Conditional Use No.

**M 268 19
Adopt
Ordinance
No. 2655/
CU 2171
(continued)**

2171) filed on behalf of Lisa St. Clair, with the following conditions:

- A. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- B. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- C. No more than seven (7) employees shall be permitted at the dog bakery.**
- D. All baking must be conducted indoors.**
- E. The site shall be subject to all DelDOT entrance and roadway requirements.**
- F. Handling and disposal of all waste from the dog bakery shall comply with all local, State and Federal laws, rules and regulations.**
- G. The dog bakery hours shall only be from 6:00 a.m. through 6:00 p.m. Monday through Friday. There shall not be any weekend hours.**
- H. One directional sign shall be permitted not to exceed six (6) square feet in size.**
- I. No retail sales to occur on the site.**
- J. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. The Final Site Plan shall clearly show the areas set aside for parking.**

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
Relating
to the
Coastal
Area**

A Public Hearing was held on the Proposed Ordinance entitled “ AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 62, ARTICLE III, SECTION 62-7, CHAPTER 72, ARTICLE I, SECTIONS 72-4 AND 72-5, CHAPTER 115, ARTICLES IV, XXV AND TABLE 1 BY AMENDING SECTIONS 115-22, 115-25, 115-182, 115-183 AND 115-194.3 TO REPLACE ALL REFERENCES TO THE “ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT”, “ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT OVERLAY ZONE”, “ESDDOZ” AND “ENVIRONMENTALLY SENSITIVE DEVELOPING AREA” WITH “COASTAL AREA”.

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on April 25, 2019 at which time the Commission recommended approval.

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

Janelle Cornwell, Planning and Zoning Director, explained the background of the Proposed Ordinance and stated that, due to the 2018 Update of the Comprehensive Plan, anything that references the Environmentally Sensitive Development District (ESDD) technically no longer exists because

**Public
Hearing
(continued)**

the Comprehensive Plan no longer recognizes the ESDD; that the ESDD land use designation has been replaced with the new reference of the Coastal Area; that this is only a name change and there is no impact to the text; and that with this change, the Comprehensive Plan and the Zoning Code now match as to new land use classifications.

There were no public comments.

The Public Hearing and public record were closed.

**M 269 19
Adopt
Ordinance
No. 2656/
Coastal
Area
Ordinance**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2656 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 62, ARTICLE III, SECTION 62-7, CHAPTER 72, ARTICLE I, SECTIONS 72-4 AND 72-5, CHAPTER 115, ARTICLES IV, XXV AND TABLE 1 BY AMENDING SECTIONS 115-22, 115-25, 115-182, 115-183 AND 115-194.3 TO REPLACE ALL REFERENCES TO THE “ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT”, “ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT OVERLAY ZONE”, “ESDDOZ” AND “ENVIRONMENTALLY SENSITIVE DEVELOPING AREA” WITH “COASTAL AREA”.

Motion Adopted: 5 Yeas.

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

**M 270 19
Adjourn**

At 2:45 p.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson, to adjourn.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

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