

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 23, 2026

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 23, 2026, 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 Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

Call to Order	The Invocation and Pledge of Allegiance were led by Mr. Hudson. Mr. Hudson called the meeting to order.
M 280 26 Approve Agenda	A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum, 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 June 16, 2026, were approved by consensus.
Correspondence	Mr. Moore reported that correspondence was received from Make-a-Wish Foundation and Dry Dock Recovery, Inc. thanking Council for their support.
Public Comments	Public comments were heard. Ms. Fern Goodheart spoke about bike trail safety access.
Administrator's Report	Mr. Lawson read the following information in his Administrator's Report: 1. <u>Project Receiving Substantial Completion</u> Per the attached Engineering Department Fact Sheet, The Estates at Bridgewater (FKA Bent Creek Estates) – Phase 3B (Construction Record) received substantial completion effective June 11, 2026.

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

2. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for May 2026 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 196 troopers assigned to Sussex County for the month of May.

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

**Annual
Comp Plan**

Jamie Whitehouse, Planning & Zoning Director, presented the annual Comprehensive Land Use Plan for Council's consideration.

**M 281 26
Approve
Annual
Comp Plan**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd, that be it moved that Sussex County Council approves the 2025-2026 Comprehensive Plan Update report to the State Planning office.

Motion Adopted: 5 Yeas

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

**Slaughter
Beach**

Mike Harmer, County Engineer, presented a recommendation to award for Slaughter Beach septic elimination project for Council's consideration.

**M 282 26
Approve
Contract A/
Slaughter
Beach Septic
Elimination**

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, that be it moved based upon the recommendation of the Sussex County Engineering Department, that contract S22-26, Slaughter Beach septic elimination project contract A, be awarded to Atlantic Contracting & Material Co., Inc. for their total bid in the amount of \$6,466,158.00.

Motion Adopted: 5 Yeas

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

**M 283 26
Approve
Contract B/
Slaughter
Beach Septic
Elimination**

A Motion was made by Mr. Lloyd, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department, that contract S22-26, Slaughter Beach septic elimination project contract B, be awarded to Delmarva Veteran Builders for their total bid in the amount of \$2,614,990.00.

Motion Adopted: 5 Yeas

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

**SCWRF
GHD
Amend 32**

Mike Harmer, County Engineer, presented a continuation of engineering support request for South Coastal WRF treatment process upgrade no. 3 & Rehoboth Beach WTP improvement program for Council's consideration.

**M 284 26
SCWRF
GHD
Amend 32**

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, be it moved based upon the recommendation of the Sussex County Engineering Department, that amendment no. 32 to the base engineering contract with GHD, Inc., be approved in the amount not to exceed \$238,400.00 for engineering services, associated with the South Coastal regional wastewater facility upgrade.

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/
Lilyvale
Annexation
into
SCUSSD**

John Ashman, Director of Utility Planning & Design Review, presented a request to prepare and post notices for Lilyvale Annexation into the SCUSSD. The Engineering Department received a request from Solutions IPEM, LLC, on behalf of their client K Hovnanian Delaware Division, Inc., the developers of parcels 134-19.00-13.00 & 13.04 to annex the properties into the SCUSSD. The project is north of Lizard Hill Road and on the west side of Central Ave and proposed for 174 single family units.

**M 285 26
Authorize
Permission
to Prepare
& Post
Notices**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd that be it moved by Sussex County Council that the Sussex County Engineering Department is authorized to prepare & post notices for the Lilyvale expansion of the Sussex County Unified Sanitary Sewer District to include parcels 134-19.00-13.00 & 13.04 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**

**FAA AIP
Grant**

Bob Bryant, Airport Manager, presented an approval request to submit a FAA AIP grant application and approval to sign grant offer for Council's consideration.

M 286 26

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, that be it

**Approve
Grant
Application**

moved based upon the recommendation of the Sussex County Engineering Department that Sussex County Council approves submittal of a Federal Aviation Administration Airport Improvement program grant application in the amount of \$6,487,537.00 for work associated with the construction of Taxiway Bravo bid package 3 phases 5, 6 & 7.

Motion Adopted: 5 Yeas

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

**M 287 26
Approve
Authority to
Sign**

A Motion was made by Mr. Lloyd, seconded by Mr. Rieley, that be it moved based upon the recommendation of the Sussex County Engineering Department that Sussex County Council approve the Sussex County Administration with authority to sign a federal aviation administration airport improvement program grant offer in the amount of \$6,487,537.00 for work associated with the construction of Taxiway Bravo bid package 3 phases 5, 6, & 7.

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/
CZ2053**

Under Old Business, Mr. Whitehouse presented 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 SUSSEX COUNTY, CONTAINING 29.97 ACRES, MORE OR LESS” (properties are lying on the northeast side of Coastal Highway [Rt. 1], directly north of Cave Neck Road [S.C.R. 88]) (911 Address: N/A) (Tax Map Parcel: 235-23.00-1.04 & 235-23.00-1.00 [P/O]) filed on behalf of Seaside at Lewes, LLC & Derrickson Properties, LLC.

The County Council held a Public Hearing on the application at the meeting on June 9, 2026. At the conclusion of the Public Hearing, the Council left the Public Record open until 4:30 p.m. on Monday, June 15, 2026, for receipt of additional comments. At the meeting on June 16, 2026, the Council received an update that the record has closed, and the Council then deferred for further consideration.

**M 288 26
Adopt
Ordinance
No. 4068/**

A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron to Adopt Ordinance No. 4068 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM

CZ2053

COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 29.97 ACRES, MORE OR LESS” for the reasons given by the Planning & Zoning Commission as follows:

- 1. The Applicant is seeking a change in zone from AR-1 to C-2 (Medium Commercial). The purpose of this district is to allow retail sales and consumer services. It is intended to be located near arterial and collector streets.**
- 2. This property is located along the northbound lanes of Route One across from the intersection with Cave Neck Road. Route One is designated as a “Principle Arterial” roadway by DelDOT and a “Major Arterial Roadway” by the Sussex County Zoning Code. This is also the location of a new grade-separated intersection or overpass serving Cave Neck Road and this property and the large residential development to be built behind it. Both of these projects were taken into account by DelDOT during the design of the overpass project. This is an appropriate location for the C-2 Zoning District and the uses that are permitted within it.**
- 3. There is a mixture of zoning classifications in this general area, including C-1, CR-1, B-1, C-2 and C-3 Districts nearby. This rezoning and the uses permitted within the C-2 Zone are consistent with the other zoning districts and uses in this area, particularly at the location of the new overpass.**
- 4. This rezoning and the permitted uses within it will provide a convenient, nearby shopping and service location for residents of the adjacent residential development as well as other residents of the Cave Neck Road and Route One area north of Nassau. This will eliminate the need for these residents to travel further to Milton or Nassau and Lewes for such services which will reduce traffic on area roadways.**
- 5. There is no evidence in the record that rezoning will significantly and adversely impact neighboring properties or roadways.**
- 6. The property will be served by central water and Sussex County Sewer.**
- 7. There are no wetlands on the property, and it is not located in a Wellhead Protection Area.**
- 8. Any development that occurs on the property will require site plan review by the Sussex County Planning & Zoning Commission after taking into account all required agency reviews, including DelDOT, State Fire Marshall and the Sussex Conservation District.**
- 9. No parties appeared in opposition to this rezoning application.**
- 10. This rezoning promotes the purpose of the Zoning Ordinance in that it promotes the orderly growth, convenience, order, prosperity and welfare of Sussex County.**
- 11. For all of these reasons it is appropriate to rezone this property from AR-1 to C-2 Medium Commercial.**

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/
CU2540**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SELF STORAGE FACILITY, AN OFFICE AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 7.00 ACRES, MORE OR LESS” (property is lying on the west side of DuPont Boulevard [Route 113], approximately 0.19 mile north of East Piney Grove Road [S.C.R. 329]) (911 Address: N/A) (Tax Map Parcel: 133-11.00-1.02) filed on behalf of La Dolce Far Niente, LLC.

The County Council held a Public Hearing on the application at the meeting on June 9, 2026. At the conclusion of the Public Hearing, the Council left the Public Record open until 4:30 p.m. on Monday, June 15, 2026, for receipt of additional comments. At the meeting on June 16, 2026, the Council received an update that the record has closed, and the Council then deferred for further consideration.

**M 289 26
Adopt
Ordinance
No. 4069/
CU2540**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt Ordinance No. 4069 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SELF STORAGE FACILITY, AN OFFICE AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 7.00 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows:

- 1. The use as a storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of the area.**
- 2. The use will be located along Route 113 which is a major arterial road with access via East Piney Grove Road. It is in an area between Georgetown and Millsboro where several business and commercial uses exist, including a large Sharp Energy facility next door. This is an appropriate location for this type of low-intensity use.**
- 3. The use will be a storage facility. No manufacturing, assembling, fabrication, or similar activities will be permitted on this site.**
- 4. There was testimony in the record that there is a need for storage facilities in Sussex County. This type of use compliments the residential development that is occurring in Sussex County, which do not have their own on-site parking for boats and RVs. It is also a benefit for small businesses that do not have their own on-site storage.**

**M 289 26
Adopt
Ordinance
No. 4069/
CU2540
(continued)**

- 5. This type of storage facility generates a relatively minor amount of traffic when compared with other types of uses. It will not adversely affect traffic on area roadways. DelDOT has stated that the traffic impact will be negligible.**
- 6. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.**
- 7. This recommendation for approval is subject to the following conditions and stipulations:**
 - a. The use shall be limited to 19 mini-storage buildings and the outside storage of boats and RVs phased as the storage buildings are constructed. None of the buildings shall have water or sewer connections except for Building A, which will contain the central office for the site.**
 - b. Security lighting shall be screened with downward illumination so that it does not shine on any neighboring properties or roadways.**
 - c. The perimeter of the storage area shall be fenced and gated with electronic access. The location and type of fencing shall be shown on the Final Site Plan. The entrance gate shall be located at least 40 feet from the East Piney Grove Road right-of-way so that waiting vehicles do not line up on that roadway.**
 - d. There shall not be any manufacturing, fabrication, or similar activities conducted on the site.**
 - e. Because this site has frontage on Route 113, which is a major arterial roadway, the signage for this use shall comply with the sign requirements of the C-2 Zoning District. This is also consistent with the signage allowed next door at the Sharp Energy site.**
 - f. Stormwater management shall be maintained on site, using Best Management Practices.**
 - g. Any trash receptacles associated with the use shall be screened from neighboring properties and roadways.**
 - h. The Final Site Plan shall indicate all RV and boat storage spaces and parking and drive aisles. The location of the outdoor storage and parking spaces shall also be clearly marked on the site itself.**
 - i. The use shall be subject to all DelDOT requirements regarding entrance and roadway improvements necessary to provide access to the site.**
 - j. No sales or maintenance of boats or RVs shall occur from the site. No hazardous materials or fuel shall be stored on the site other than what may be in the tanks of boats and RVs on the site. No junked or unregistered boats, boat trailers, or RVs shall be stored on the site.**
 - k. Any violations of the conditions of approval of this Conditional Use may result in the termination of this Conditional Use.**
 - l. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission. The Final Site Plan shall include a**

Phasing Plan depicting the boat and RV storage areas that will exist until all of the phases and buildings are completed.

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/
CU2604**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS WITH OUTDOOR STORAGE AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” filed on behalf of Alvaro E. Perez Roblero.

The County Council held a Public Hearing on the application at the meeting on June 9, 2026. At the conclusion of the Public Hearing, the Council left the Public Record open until 4:30 p.m. on Monday, June 15, 2026, for receipt of additional comments. At the meeting on June 16, 2026, the Council received an update that the record has closed, and the Council then deferred for further consideration.

**M 290 26
Approve
CU 2604/
DENIED**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to approve an Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS WITH OUTDOOR STORAGE AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS”.

Motion DENIED: 5 Nays

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

**Proposed
Ordinance
Introduction**

Ms. Gruenebaum introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR C/Z 673 (ORDINANCE NO. 294) IN RELATION TO THE ADDITION AND USE OF RECREATIONAL AMENITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.29 ACRES, MORE OR LESS” filed on behalf of

	Sandie, LLC.
CM Comments	Mr. Rieley commented about traffic safety and relying on DelDOT for their expertise. Mr. Hudson commented about the County's participation in land preservation over the years.
M 291 26 Go Into Executive Session	At 10:48 a.m., a Motion was made by Mr. Lloyd, seconded by Mr. McCarron to go into Executive Session for the purpose of discussing matters relating to land acquisition & pending & potential litigation. 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	An Executive Session was held in the Basement Caucus Room to discuss matters relating to land acquisition & pending and potential litigation. The Executive Session ended at 11:31 a.m.
M 292 26 Reconvene	At 11:34 a.m., a Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to come out of Executive Session 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
E/S Action	There was no action related to Executive Session matters.
M 293 26 Recess	A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to recess until 1:30 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 294 26 Reconvene	A Motion was made by Mr. McCarron, seconded by Mr. Lloyd to reconvene. 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/
Northstar** **A Public Hearing was held for the Northstar Annexation into the Sussex County Unified Sanitary Sewer District (West Rehoboth Area).**

**Annexation Into
SCUSSD** **John Ashman, Director of Utility Planning & Design Review presented the request to Council's for consideration.**

There were no public comments.

The Public Hearing and public record were closed.

M 295 26 **A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum to**
Adopt **Adopt Resolution No. R 003 26 entitled "A RESOLUTION TO EXTEND**
Resolution **THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY**
No. R 003 **SEWER DISTRICT (SCUSSD) WEST REHOBOTH AREA TO**
26/ **INCLUDE NORTHSTAR, TWO PARCELS, ON THE SOUTH SIDE OF**
Northstar **BEAVER DAM ROAD. THE PARCELS ARE LOCATED IN THE**
Annexation **LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY,**
into **DELAWARE, AND RECORDED IN THE OFFICE OF THE**
SCUSSD **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/
Swann Lake** **A Public Hearing was held for the Swann Lake Annexation into the Sussex County Unified Sanitary Sewer District (Fenwick Island Area).**

**Annexation Into
SCUSSD** **John Ashman, Director of Utility Planning & Design Review presented the request to Council's for consideration.**

There were no public comments.

The Public Hearing and public record were closed.

M 296 26 **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to**
Adopt **Adopt Resolution No. R 004 26 entitled "A RESOLUTION TO EXTEND**
Resolution **THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY**
No. R 004 **SEWER DISTRICT (SCUSSD) FENWICK ISLAND AREA, TO**
26/ **INCLUDE THE PROPOSED SWANN LAKE SUBDIVISION**
Swann Lake **PROJECT LOCATED IN THE BALITMORE HUNDRED, SUSSEX**

**Annexation
Into
SCUSSD** 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/
CU2577** A Public Hearing was held on Proposed Ordinance entitled “AN
ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-
1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS
TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
BEING IN SUSSEX COUNTY, CONTAINING 32.94 ACRES, MORE OR
LESS” (property is lying on the south side of Millsboro Highway [Route
24], at the intersection of Millsboro Highway [Route 24] and Phillips Hill
Road [S.C.R. 472]) (911 Address: N/A) (Tax Map Parcel: 133-20.00-75.00)
filed on behalf of Soltage DE DevCO, LLC.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

The Planning & Zoning Commission held a Public Hearing on the
application on May 20, 2026. At the meeting of June 17, 2026, the Planning
& Zoning Commission recommended approval of the application for the 7
reasons of approval and subject to the 13 recommended conditions as
outlined.

The Council found that Ms. Mackenzie Sindelar, Esq. with Saul Ewing,
LLP spoke on behalf of the Applicant, Soltage DE DevCo, LLC; that also
present were Zach Myer, representing Soltage DE DevCo, LLC, the
current property owners, Mr. Phillip E. Messick and Mrs. Eloise W.
Messick, Mr. Steven Fortunato, P.E. with Bohler Engineering, Mr. Jon
Marco Sanchez, Develop Manager for Soltage, and Mr. Matt Jennette, Vice
President of Geo-Technology Associates, Inc.

Ms. Sindelar stated that Soltage is an independent power producer,
who specializes in the development of financing, ownership, and operation
of distributed, smaller, localized scale solar and battery storage projects;
that since its establishment in 2006, the company has successfully developed
and constructed over 125 clean energy projects across 18 states; that in
Delaware, Soltage has a notable presence already with completed projects
in Sussex County, New Castle County, and with additional projects
currently underway in Kent County; that the projects within Sussex County
are located within unincorporated land, specifically within Lewes and
Dagsboro; that the Lewes site is currently operational; that the
Dagsboro site has finished construction of the solar facility over six months
ago, and was awaiting Delmarva Power and Light to complete

**Public
Hearing/
CU2577
(continued)**

interconnection construction in order for it to become operational; that Soltage had operated two other facilities in Wilmington since 2014; that Soltage had entered into a Ground Lease agreement with the Messick's for development and operation of the proposed use; that the Applicant is requesting a Conditional Use approval, within the AR-1 (Agricultural Residential) District within the Low Density area for a solar array facility; that the proposed solar array facility, is a community solar project, operating under Delaware's Clean Energy Facility Program; that ultimately the project will connect to the Delmarva Power and Light grid, facilitating the transfer of generated clean electricity to the local distribution network; that as a community energy facility participating in Delaware's program, the project was designed to provide guaranteed bill savings to participating Delmarva Power customers without requiring any change to their existing electric service, utility account, or electric reliability; that subscribers continue to receiving service from DP&L (Delmarva Power); that the project provides bill credits through the program; that any Delaware Delmarva Power & Light customer would be eligible to receive those credits with the project; that upon approval, the facility was anticipated to generate a total of 3.5 megawatts of alternating current (a unit measuring the power output of the renewable energy source); that the particular project had obtain its interconnection approval; that the site is located along Millsboro Highway (Rt. 24), at the intersection of Phillips Hill Road; that the acreage of the parcel was 33.59 acres; that the new development area was approximately 19.92 acres; that the property was zoned AR-1 (Agricultural Residential), and located within the Low Density area; that the site was located within Investment Level 4, near properties that are similarly situated; that access to the site would be provided from Millsboro Highway, from Rt. 24; that the internal streets and access ways were provided to each solar array area, to allow for maintenance and upkeep; that DelDOT confirmed the project would generate a diminutive impact on traffic; that the solar setbacks required by Code have been met; that all buffer requirements have been met; that a request was made to amend Condition C relating to fencing; that the applicant is looking to install an agricultural style fence; that the current condition is for interwoven fencing to be installed; that they have found that it does not stay in place and it does not look good; that the applicant is proposing a donation to the Sussex County Land Trust for reforestation at a ratio of 3 acres reforested for every 2 acres of forest cleared at a rate of \$3,000 per acre of reforestation subject to final unappealable site plan approval.

It was further discussed of how solar credits can be obtained, the bonding process and the setbacks and buffer.

Public comments were heard.

Ms. Kathleen Depoortere spoke in opposition of the application.

The Public Hearing and public record were closed.

M 297 26 **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to amend**
Amend **Condition C to now read “The entire area of the solar array shall be**
Condition C/ **surrounded by a 7-foot-tall agricultural fixed knot fence to comply with the**
CU2477 **height requirement of the National Electric Code. The fence location and**
 type of screening shall be shown on the Final Site Plan”.

Motion Adopted: 5 Yeas

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

M 298 26 **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to amend**
Amend **Condition D to now read “The forested buffer shall be at least 30-feet-wide**
Condition D/ **along the perimeter of the Property adjacent to lands of other ownership**
CU2477 **and 50 feet wide along Millsboro Highway (Route 24) (except for the access**
 and entryway area and where utility and stormwater infrastructure
 prevents maintenance of a vegetated or forested buffer).

Motion Adopted: 5 Yeas

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

M 299 26 **A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt**
Adopt **Ordinance No. 4070 entitled “AN ORDINANCE TO GRANT A**
Ordinance **CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**
No. 4070/ **RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED**
CU2477 **ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX**
 COUNTY, CONTAINING 32.94 ACRES, MORE OR LESS” for the
 reasons and conditions given by the Planning & Zoning Commission as
 follows and as amended by this Council:

- 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 19.92 acres of a larger 33.59-acre tract. In accordance with a forest assessment prepared by the Applicant, approximately 13.47 acres of woodlands will be preserved along with a proffered donation to the Sussex County Land Trust for addition woodlands planting and preservation. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.**

**M 299 26
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CU2477
(continued)**

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 surrounded on three sides by land used for agricultural purposes, including poultry houses. The fourth side is wooded.
5. This Application generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - a. The use shall be for a 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. The entire area of the solar array shall be surrounded by a 7-foot-tall agricultural fixed knot fence to comply with the height requirement of the National Electric Code. The fence location and type of screening shall be shown on the Final Site Plan.
 - d. The entire area of the solar array shall be surrounded by a landscaped buffer strip of open space, a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. The forested buffer shall be at least 30-feet-wide along the perimeter of the Property adjacent to lands of other ownership and 50 feet wide along Millsboro Highway (Route 24) (except for the access and entryway area and where utility and stormwater infrastructure prevents maintenance of a vegetated or forested buffer). This landscaped buffer shall use existing vegetation or shall be planted with evergreen vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
 - e. As proffered by the Applicant, to offset the impact of woodland clearing, it shall donate to the Sussex County Land Trust (SCLT) funding for reforestation at a ratio of three (3) acres reforested for every two (2) acres of forest cleared, at a rate of \$3,000.00 per acre of reforestation, subject to final unappealable site plan

**M 299 26
Adopt
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(continued)**

- approval.
- f. The solar panels and array area shall be located at least 200 feet from any dwelling on neighboring properties, with the nearest dwelling situated 204.8 feet away.
 - g. Transformers and similar equipment shall be centrally located on the site, at least 200 feet from any dwelling on neighboring properties.
 - h. 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.
 - i. 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.
 - j. There are approximately 4.25 acres of wetlands on the Property that shall remain undisturbed. As proffered by the Applicant, there shall be a wetland buffer that is at least 30-feet-wide from all wetlands within the Property.
 - k. 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.
 - l. 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.
 - m. 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/
CU2592**

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 COMMERCIAL SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 85.3 ACRES, MORE OR LESS” (property is lying on the south side of Radish Road [S.C.R. 338] and on the north and south side of Hickory Hill Road [S.C.R. 82] and Indian Town Road [S.C.R. 408], approximately 940 feet east from Mumford Road [S.C.R. 409]) (911 Address: N/A) (Tax Map Parcel: 133-20.00-51.00) filed on behalf of Soltage DE DevCo, LLC.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

**Public
Hearing/
CU2592
(continued)**

The Planning & Zoning Commission held a Public Hearing on the application on May 20, 2026. At the meeting of June 17, 2026, the Planning & Zoning Commission recommended approval of the application for the 7 reasons of approval and subject to the 13 recommended conditions as outlined.

The Council found that Ms. Mackenzie Sindelar, Esq. with Saul Ewing, LLP, spoke on behalf of the Applicant, Soltage DE DevCo, LLC; that also present were Mr. Zac Meyer, Develop Director for Soltage, Mr. Steven Fortunato, P.E. with Bohler Engineering, and Mr. Matt Jennette, Vice President of Geo-Technology Associates, Inc.

Ms. Sindelar stated that she would not introduce Soltage again, but rather request to incorporate the background information provided in the prior public hearing for C/U 2577 Soltage DE DevCo, LLC into the record for C/U 2592 Soltage DE DevCo, LLC by reference; that the application sought approval for a Conditional Use of land located within the AR-1 (Agricultural Residential) Zoning District, within the Low Density Area for a solar array facility; that the proposed use is for a community solar project, operating under the Delaware's Clean Energy Facility Program; that upon approval of the project, it would generate a combined total of eight of electric power; that the site was located between the Hickory Hill Road and Radish Road; that the section of property that was opposite the street, came up in consideration of wetland areas, as well as forest to be retained; that the acreage was approximately 85.09 acres, with a net development area of 58.45 acres; that the property was located within the AR-1 (Agricultural Residential) District, Low Density Area and the Investment Level 3 and 4 areas; that access would be provided from Hickory Hill Road; that there would be internal streets for maintenance; that DelDOT indicated limited traffic, stating that the proposed use would have a diminutive impact on nearby traffic; that solar setbacks had been met or exceeded; that she presented to the Council a street view renderings of what the site looked like currently, what the site would look like after planting, and what the site would look like in 10 years; that in some areas there would be maintenance to the existing forest; that other areas would be buffered; that they proposed a 30 foot wide buffer to consist of 10 Evergreen trees per linear feet; that the wetland area was located across the street, consisting of approximately 5.02 acres; that no solar arrays were proposed in that area; that in terms of the compliance with the Zoning Code, Comprehensive Plan, Conditional Use and Solar Siting considerations, she requested to incorporate by reference the previous states made with respect to the previous project, which were also applicable for the current site; that the landscape buffer, as required by §115-172.I were proposed with a minimum of 100 feet from any streets and a minimum of 50 feet from all property lines; that the panels would be located 207.6 feet away from any dwelling on any neighboring property, therefore being in excess of the minimum 200 foot setback; that equipment would be centrally located

**Public
Hearing/
CU2592
(continued)**

on the site; that the facility would operate as a ground mounted solar farm; that signage would be in compliance with the Code; that the project was in compliance with the Solar Ordinance; that the 5.02 acres of wetlands would remain undisturbed; that a revision to Condition C was requested and discussed.

Public comments were heard.

Mr. Charlie Timmons spoke in opposition of the application.

The Public Hearing and public record were closed.

**M 300 26
Amend
Condition C/
CU2592**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron, to amend Condition C to now read “The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall include interwoven screening for the first five years of operation on the south side of the project. The balance of the project may either be the same type of screening or the agricultural fixed knot screening. The fence location and type of screening shall be shown on the Final Site Plan.

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

**M 301 26
Adopt
Ordinance
No. 4071/
CU2592**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to Adopt Ordinance No. 4071 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 85.3 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

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 58.45 acres of a larger 85.3-acre tract. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings.
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

**M 301 26
Adopt
Ordinance
No. 4071/
CU2592
(continued)**

surrounded on three sides by land used for agricultural purposes, including poultry houses. The fourth side is wooded.

5. This Application generally complies with Section 115-172I of the Sussex County Zoning Code regarding solar arrays.
6. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.
7. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
8. This recommendation is subject to the conditions set forth in Section 115-172I of the Zoning Code and the following additional conditions:
 - a. The use shall be for a 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. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall include interwoven screening for the first five years of operation on the south side of the project. The balance of the project may either be the same type of screening or the agricultural fixed knot screening. The fence location and type of screening shall be shown on the Final Site Plan.
 - d. The entire area of the solar array shall be surrounded by a 30-foot-wide landscaped buffer strip of open space a minimum of 100 feet from any street lines and a minimum distance of 50 feet from all property lines. Furthermore, there shall be a forested buffer planted along the boundary of the parcel adjacent to Hickory Hill Road (except for the access and entryway area and where utility and stormwater infrastructure prevents maintenance of a vegetated or forested buffer), as well as along the portion of the site and the adjacent Parcels 54 and 158, where the existing woodlands are not proposed to be maintained. The buffer shall be 30-foot-wide and consist of 10 evergreen trees per 100 linear feet. Additionally, the existing woodlands located on the Property to the north of the array area and outside the limit of disturbance line shall be maintained to the greatest extent practicable. This landscaped buffer shall use existing vegetation or shall be planted with evergreen vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
 - e. As proffered by the Applicant, to offset the impact of woodland clearing, it shall donate to the Sussex County Land Trust (SCLT) funding for reforestation at a ratio of three (3) acres reforested

**M 301 26
Adopt
Ordinance
No. 4071/
CU2592
(continued)**

- for every two (2) acres of forest cleared, at a rate of \$3,000.00 per acre of reforestation, subject to final unappealable site plan approval.
- f. The solar panels and array area shall be located at least 200 feet from any dwelling on neighboring properties, with the nearest dwelling situated 207.6 feet away.
 - g. Transformers and similar equipment shall be centrally located on the site, at least 200 feet from any dwelling on neighboring properties.
 - h. 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.
 - i. 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.
 - j. There are approximately 5.02 acres of wetlands on the Property located on the south side of Hickory Hill Road that shall remain undisturbed.
 - k. 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.
 - l. 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.
 - m. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.

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

**Public
Hearing/
CU2550**

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 SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 30.55 ACRES, MORE OR LESS” (property is lying on the west side of Harbeson Road [Route 5], approximately 850-feet south from the intersection of Diamond Farm Road [S.C.R. 257] and Harbeson Road [Route 5]) (911 Address: N/A) (Tax Map Parcel: 235-26.00-17.01) filed on behalf of Milton DE Solar CSS, LLC.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on May 20, 2026. At the meeting of June 17, 2026, the Planning

**Public
Hearing/
CU2550
(continued)**

& Zoning Commission recommended approval of the application for the 7 reasons of approval and subject to the 10 recommended conditions as outlined.

The Council found that Mr. Jon Falkowski, Civil Engineer with Becker Morgan Group, spoke on behalf of the Applicant, Milton DE Solar CSS, LLC. Mr. Falkowski stated that also present were Mr. Paul Reducha with Ameresco, Inc., as well as Mr. John E. Tracey, Esq. with Young Conaway Stargatt & Taylor, LLP.

Mr. Falkowski stated that the application was for a community solar project, located in Milton, Delaware, just south of Milton along Harbeson Road; that the site was located near the intersection of Carpenter Road and Harbeson Road, to the west side of Harbeson; that the site consisted of 30.55 acres within the AR-1 (Agricultural Residential) Zoning District; that the layout has changed since the Commission meeting due to testimony from the neighbor; that they met with the neighbor several times to take into consideration their request; that they rearranged the array layout; that Southern Therapeutic Riding Center is a value to the community and they wanted to respect their wishes; that the application proposes a 14.82 acre Conditional Use area; that the 30 foot buffer requirement has become the Sussex County standard; that they are proposing 7 foot tall solid fence and evergreen buffer boundary along the north side; that they propose all 4 sides have the evergreen buffer; that they have a landscape architect on staff that they can utilize; that the buffer would surround the entire perimeter of the property or of the fenced area; that the proposed fencing would be a seven foot high fence, with an interwoven mesh screening for a period of 5-10 years to allow the evergreens to grow in; that the design standards were fairly typical; that the community solar project would benefit the local community through the subscriber program by providing lower power costs; that the use would not generate much traffic, with only one to two visits per month; that because of this there would be no increase in traffic; that the project proposes a renewable energy source that would not produce odors, dust, gas, smoke or fumes; that there would be little to no noise; that there would be a small hum at the inverter, which would be centrally located on the site, being more than 735 feet away from the stables and over 450 to the southern properties; that they plan to put in a new access road; that there would be no herbicides, no chemicals, and no pesticides used to control weeds; that as required, they would post the Decommissioning Bond and decommission the project at the end of its life; that they had performed a Glare Study on the project for aviation and for the neighbors, which was included in the submitted packet under Appendix 2.12; that the Glare Study showed that there would be no adverse impact on the neighbors; that he was aware that there had been a lot of discussion on the interconnection process; that Becker Morgan Group has personally been processing solar applications since 2021; that he understood there was question as to why the project could go through Sussex County's process, get approved, but seemingly were not being built;

**Public
Hearing/
CU2550
(continued)**

that the interconnection process was a very long process; that it was generally a three year process; that the Sussex County Conditional Use process was currently roughly a two to a two and a half year process; that this was the reasoning for the gap the Council was seeing with some of the solar projects; that the current site was in a great position, because they were through most of the steps already; that the first step was to apply to Delmarva Power, at which time they get assigned in the queue; that they need to perform an Interconnection Study to require system upgrades, depending on where the property is, what distribution upgrades are necessary to facilitate the project in its location; that Delmarva Power provides a cost estimate, which will get signed, and those costs are paid by the Developer; that the project met the Conditional Use in that it is of public or semi-public character, essential to and desirable for the general convenience of and welfare of Sussex County residents; that the application promoted Chapter 7.3 of the Sussex County Comprehensive Plan, which encouraged renewable energy; that there would be no adverse impacts as he had noted; that they proposed adequate landscape buffering and perimeter fencing; that there would be no increased traffic; that traffic would consist of one to two visits per month, as required for periodic inspection; that the project would not create any significant noise, glare, lighting, dust or odor; that the project complied with Ordinance No. 2920.

Public comments were heard.

Ms. Kelly Boyer support in favor of the application.

**M 302 26
Amend
Condition
8C/CU2550**

The Public Hearing and public record were closed.

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to amend Condition 8C for the second sentence to now read “The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall include interwoven screening for ten-year period with the northern property being shielded for its length by the neighbor by a solid fence. The fence location and type of screening shall be shown on the Final Site Plan.

Motion Adopted: 5 Yeas

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

**M 303 26
Amend
Condition
8D/CU2550**

A Motion was made by Mr. McCarron, seconded by Mr. Rieley to amend Condition 8D for it to now read “The solar array will be located on approximately 14.82 acres of a larger 30.55-acre tract as shown on the revised plan dated June 1, 2026. The array area complies with all of the Code requirements for separation distances and setbacks from property

lines and dwellings and the setbacks along the northern boundary with the riding organization have been increased to 220 feet with a 20-foot-wide landscaped buffer. This landscaped buffer shall be planted with evergreen vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.

Motion Adopted: 5 Years

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

**M 304 26
Adopt
Ordinance
No. 4072/
CU2550**

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to Adopt Ordinance No. 4072 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 30.55 ACRES, MORE OR LESS” for the reasons and conditions given by the Planning & Zoning Commission as follows and as amended by this Council:

- 1. During the initial public hearing on this Conditional Use, the Applicant presented a site plan that showed the solar array area in fairly close proximity to the neighboring property owned and operated by the Southern Delaware Therapeutic Riding Organization. As the name implies, this organization provides therapeutic horseback riding to mentally and physically vulnerable children and adults. The Organization expressed concerns about this design in both a letter to the Commission and in testimony during the public hearing. As a result, the Commission left the record open so that the Applicant could revisit its design. A more favorable Site Plan has been submitted with the array area located further away from the Riding Organization. With these modifications, it is appropriate to recommend an approval of this solar array application.**
- 2. 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.**
- 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.**
- 4. This Application as amended generally complies with Section 115-172.I of the Sussex County Zoning Code regarding solar arrays.**
- 5. The proposed solar generation facility will not result in any noticeable increase in traffic on area roadways, and DelDOT has**

**M 304 26
Adopt
Ordinance
No. 4072/
CU2550
(continued)**

stated that the traffic impact will be “Diminutive”. There are no regular employees at the site, only periodic visits for inspections, maintenance, or repair of the solar panels.

6. The proposed use provides a renewable energy source that is a benefit to the residents and businesses of Sussex County.
7. This recommendation is subject to the conditions set forth in Section 115-172.I of the Zoning Code and the following additional conditions:
 - a. The use shall be for a ground-mounted solar array in the configuration shown on the Applicants Revised Conditional Use Site Plan dated June 1, 2026. 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. The entire area of the solar array shall be surrounded by a 7-foot-tall fence to comply with the height requirement of the National Electric Code. The fencing shall include interwoven screening for ten-year period with the northern property being shielded for its length by the neighbor by a solid fence. The fence location and type of screening shall be shown on the Final Site Plan.
 - d. The solar array will be located on approximately 14.82 acres of a larger 30.55-acre tract as shown on the revised plan dated June 1, 2026. The array area complies with all of the Code requirements for separation distances and setbacks from property lines and dwellings and the setbacks along the northern boundary with the riding organization have been increased to 220 feet with a 20-foot-wide landscaped buffer. This landscaped buffer shall be planted with evergreen vegetation that serves as a screen while not impeding the use as a solar array facility. The location and types of vegetation used within this buffer area shall be included in a landscape plan provided with the Final Site Plan.
 - e. Transformers and similar equipment shall be centrally located on the site as shown on the Revised Conditional Use Site Plan dated June 1, 2026.
 - f. 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.
 - g. 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.
 - h. 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.
 - i. The Final Site Plan shall include a Decommissioning Plan that

**M 304 26
Adopt
Ordinance
No. 4072/
CU2550
(continued)**

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

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

Motion Adopted: 5 Years

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

**Public
Hearing/
CZ2032**

A Public Hearing was held on a 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 (181 DWELLING UNITS) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 63.28 ACRES, MORE OR LESS” (properties are lying on the on the south side of Legion Road [S.C.R. 298], approximately 0.51 mile south of John J. Williams Highway [Route 24]) (911 Address: N/A) (Tax Map Parcels: 234-29.00-265.00 & 264.00 [P/O]) filed on behalf of ELI DeLuca Mid-Atlantic, LLC (Tide Pines).

The Planning & Zoning Commission held a Public Hearing on the application on May 20, 2026. At the meeting of June 17, 2026, the Planning & Zoning Commission recommended approval of the application for the 7 reasons of approval and subject to the 20 recommended conditions as outlined.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

The Council found that Mr. David Hutt, Esq. with Morris James, LLP, spoke on behalf of the Applicant, ELU DeLuca Mid-Atlantic, LLC; that also present were Mr. Joe DeLuca and Mr. Reese Rosenthal, Principals of ELU DeLuca Mid-Atlantic, LLC, Mr. Jason Palkewicz, P.E. with Solutions, IPEM and Mr. Marc Cote, P.E. & Certified Planner with the Rossi Group.

Mr. Hutt stated that the application was for a Change of Zone for all of one parcel, and a portion of another parcel; that the total acreage involved was 63.21 acres; that while the application was dominated as a Change of Zone application, it was a bit of a misnomer; that the end result would be the same underlying zoning; that they were requesting a RPC (Residential Planned Community) overlay to be placed over the current zoning; that presently the property was zoned GR (General Residential); that the property is located along the west side of the Legion Road; that various existing communities were located within the area; that the site was current undeveloped; that the application proposed 181 total

**Public
Hearing/
CZ2032
(continued)**

units, to include a mixture of 107 single-family detached homes and 74 townhomes; that the application could easily be described as an infill project which would be consistent with the surrounding area; that the Site Plan was created and tailored to match the physical characteristics of the property, as well as the surrounding area; that the site was located on the west side of Legion Road; that Legion Road began at Route 24 (John J. Williams Highway), and ran to Tributary Road, within the Peninsula Lakes community; that the American Legion Post 28 was located at the intersection of Legion Road and Route 24; that if one were to travel east from the intersection of Legion Road and Route 24, the next signalized intersection was Bay Farm Road, being the intersection were Harris Teeter, Walgreens and other commercial opportunities were located; that at that traffic signal, Bay Farm Road would be to the left and Autumn Road would be located to the right; that when traveling west on Route 24 from the Legion Road intersection to the next signalized intersection, would be the location of Mary Mother of Peace Church; that across the street from the church was the location of Royal Farms; that when switching back across Route 24, there was the location of the Nanticoke Indian Museum; that when heading back east, towards Legion Road on Route 24, there was the Trading Post Plaza; that at this location, Mount Joy Road was located to the north, and Oak Orchard Road was located to the south; that Route 24 was one of the primary east to west corridors in Sussex County; that the mentioned traffic signals and businesses was a representative of the Route 24 corridor, and its significant amount of residential uses, commercial businesses, employment opportunities, and business centers along the length of Route 24; that according to the State Strategies Map, the property was primarily located within Investment Level 2; that there was a small portion near Emily Gut, located on the eastern side of the property, located within Investment Level 3; that the Office of State Planning Coordination and the State Strategies document, indicated that for Level 2, investments in policy should support and encourage a wide range of uses and densities, promote other transportation options, foster efficient use of existing public and private investments, and enhance community identity integrity; that it went on to state that investments should encourage departure from the typical single family dwelling developments and promote a broader mix of housing types; that it stated the State's intent was to use its spending and management tools to promote well- designed development in these areas; that such developments provide a variety of housing types; that the application proposed two housing types; that was what Residential Planned Communities allowed; that according to the chart provided within the 2025 State Strategies document, it included a policy focus; that the first bullet point of the policy focus was for a broader mix of housing and commercial options; that the next was for efficient use of public and private investments and then infrastructure investments for new growth; that the most important part was for the broader mix of housing options is what Level 2 encouraged; that in short, this was an area where the State expected and encouraged growth and more specifically, departure from single-family

**Public
Hearing/
CZ2032
(continued)**

detached developments; that according to the Future Land Use Map, the site was located within Coastal Area, being one of the County's seven growth areas; that everything surrounding the property was located within the same Coastal Area; that northwest of the site there were areas located within the Low Density Area; that the Comprehensive Plan describes the Coastal Area; that it talks about having a range of housing types that should be permitted and specifies including single-family homes, townhomes, and multi-family units; that this is exactly the housing proposed within the current application; that the predominant zoning classification for the area was GR (General Residential), being the same as the subject property; that immediately east of the site are properties located within the MR (Medium Density Residential) Zoning, which was very similar to the GR District as far as density and types of uses; that most of that area was the Peninsula Lakes community; that additionally, there were HR-1 (High Density Residential) zoned properties, along with various commercial areas including C-1 (General Commercial), CR-1 (Commercial Residential), C-2 (Medium Commercial), and B-1 (Neighborhood Business) are all represented along the Route 24 corridor; that all of this highlighted the mixture of businesses, various residential opportunities, including medium to higher density residential uses within the immediately surrounding area; that the purpose of the GR (General Residential) Zoning was to provide for medium density residential development use, including all manufactured homes, and was an apt description of the area; that when looking at a one or two mile radius around the site, one can see all the various community names represented on the map; that the application proposed 181 total units, with a gross density of 2.86 units to the acre; that because they were proposing an RPC (Residential Planned Community), there was a different way to calculate density; that pursuant to §115-126, there was a different way to calculate density; that those included areas for churches, schools, State wetlands or Tidal wetlands, commercial uses, and then either 25% as a number for streets or the actual area of the streets; that all of those things could be deducted when calculating density within an RPC; that the only one of these that applied to the current property was the actual area of the streets which was 8.6 acres; that when the application's RPC's net density was calculated, it equaled to 3.31 units to the acre; that this was consistent and less than the density of many of the other residential projects located within the one and two mile radiuses of the site; that within a one mile radius of the site there was Victoria's Landing at 11.4 units to the acres, Plover Point at 2.6 units to the acre, the Crossings at Oak Orchard at six (6) units to the acre, Patriots Glen at 3.1 units to the acre, Riverside at 6.7 units to the acre, and Driftwood Village at four (4) units to the acre; that within a two mile radius of the site there was Bayshore at 8.9 units to the acre, Baywood Garden Villas at 9.4 units to the acre, Lingo Estates at 3.9 units to the acre, and Enchanted Acres at four (4) units to the acre; that most of nearby communities were higher than the proposed 3.31 units to the acre, as was proposed for the current application; that Mr. Matt Jennette and his team with GTA performed a number of forms of

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analysis of the property; that the purpose of an RPC (Residential Planned Community) was to encourage large scale developments as a means of creating a superior living environment through unified developments and to provide for the application of design ingenuity while protecting existing and future developments in achieving the goals of the Comprehensive Plan; that in order to create that superior living environment, or a well-designed community, the property was studied to determine its primary ecological factors; that this process also occurs with Cluster Major Subdivision applications; that not only was this consistent with the Comprehensive Plan, the Zoning Code and sound land use planning, it also matched the Office of State Planning Coordination Statement in its PLUS Review for the project; that it noted that based on comments from State agencies, if the parcel contained environmental concerns or other constraints to development, the State requested that the Applicant and the local jurisdiction work with State agencies to design the site with respect to those environmental features, which would help create a more sustainable development; that one of the first things that occurred was a Wetland Delineation of the property, which was conducted by GTA; that the delineation showed the existence of just under one acre, specifically 0.96 acres, of Non-Tidal wetlands located along the eastern boundary of the property, along Emily Gut; that the U.S. Army Corps of Engineers issued an approved Jurisdictional Determination (AJD) on September 13th, confirming the delineation; that the first step was the delineation of the wetlands along Emily Gut, and the approved Army Corps of Engineers Jurisdictional Determination; that the next step was to identify any other ecological features that existed on the site; that this was the wooded areas of the site, which were reflected in a green color on the presentation; that the areas reflected in purple were agricultural fields which existed on the site; that as part of the process, GTA did a Forest Assessment Report and a Drainage Assessment Report, assigning a list of priorities, with respect to those resources on the site; that with respect to the actual resource, as the term is defined in the Zoning Code, the wetlands were a resource that required resource buffering; that layers of resource buffering were provided adjacent to those wetlands; that the next priority was level was given to the trees and the woodlands, with the next priority being the agricultural areas; that after delineating the wetlands, studying the site, taking into consideration the performed assessments and reports, the lots were then added, followed by the street network; that the land plan was then prepared, so that the wetlands and the area at the eastern side of the parcel would not be disturbed at all; that the land plan was designed in a way so that 12.8 acres (26%) of the woods would remain; that Open Space A, consisting of 23.7 acres, equaling 37% of the site, not only created a greater buffer between the resource wetlands, but additionally included an amenity; that it was useful open space to the residents of the future community, as they would be able to walk on a walking trail through the area; that while the application was filed before the current perimeter buffer Ordinance, which requires a 30 foot buffer, as

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well as perimeter buffer protection area, it was found that the plan could meet those requirements on the southern and western boundaries of the site; that in addition to the 30 foot perimeter buffer, the Applicant was proffering within the proposed conditions, an additional 20 feet of perimeter buffer protection area along the southern and western boundaries; that this would allow more preservation of woods; that the entrance would be off Legion Road; that there would be a required right turn lane added; that the 30 foot perimeter buffer would be added to the area which was currently agricultural field; that there would be an amenity center right as one would enter the community; that the amenities were proposed to include a clubhouse, pool house, and some sports courts; that when moving further into the community, was the location of the wetlands along the eastern boundary, along with the resource buffers, and Open Space A consisting of 23.7 acres; that the plan proposed an additional open space area, consisting of four acres, equaling a total of 27.5 acres (43%) of open space for the entire project; that the walking trail within Open Space A provided a connection to the location of the amenity area; that the same walking trail connected to a sidewalk network in the community; that the sidewalks would be located on one side of the streets throughout the community; that street lighting would be provided throughout the community; that other superior design feature was to treat the 50 foot agricultural separation distance requirement as a setback, rather than just a separation distance; that in addition to the 30 foot perimeter buffer, and in some cases the 20 foot perimeter buffer protection area, there are no lots closer than 50 foot along those areas; that it is not a separation distance, but rather a true building setback; that from the Peninsula Lakes community, there was an organic buffer provided by Emily Gut, with the addition of Open Space A to buffer the two communities from each other; that the FEMA Flood Map indicated that the properties were located within the Flood Zone X, which is an area outside of the 500 Year Floodplain; that central and public utilities were available to the site; that Tidewater Utilities had provided a Willing and Able Letter, confirming the availability of central water; that the Sussex County Engineering Department confirmed that there was capacity for central sewer to the site; that there were no Water Protection Areas, as defined in Chapter 89, which included Wellhead Protection Areas and Excellent Groundwater Recharge Areas; that a Property Owners Association would be formed to manage all of the open space and common areas; that the property was located within the Indian River School District; that the Applicant would coordinate with the school district regarding the location of a bus stop; that a DelDOT Service Level Evaluation Request was filed with DelDOT; that DelDOT's response indicated that the traffic impact for the proposed community would be a minor impact; that when a project provides a minor impact, rather than performing a Traffic Impact Study (TIS), the Applicant may pay an Area Wide Study Fee (AWSF) in lieu of that Traffic Impact Study; that there would be a right turn lane added onto Legion Road, as part of the creation of the entrance to Tide Pines community; that Legion Road is an improved road; that the road was improved as part of

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the Peninsula Lakes community construction; that Legion Road, from Route 24 to the Peninsula Lakes community, met the DelDOT Functional Classification of a local road; that there would be two, 11 foot travel lanes and five foot shoulders outside of those travel lanes; that DelDOT had reported that a traffic signal was to be installed at the intersection of Legion Road and Route 24, in Fiscal Year 27; that the proposed traffic signal would be helpful for not only the Tide Pines community, but for the Peninsula Lakes and others who access Legion Road; that the Applicant had hired Mr. Marc Cote, P.E. & Certified Planner with the Rossi Group, to perform an analysis on the level of service at the nearest intersections; that the intersections where the entrances were studied were the entrance to Tide Pines, Peninsula Lakes, and the Legion Road and Route 24 entrance; that particularly with the traffic signal, the conclusion was that there was no degradation below a level of Service D; that he had questioned Mr. Cote about how the straightaway and the road would work; that Mr. Cote indicated that the road was too short to do a true segment analysis, where actual straightaways or the distances between intersections were analyzed; that the reports were submitted as part of the application's project book; that within those reports, Mr. Cote indicated that there was sufficient capacity for the additional demand from the Tide Pines community along Legion Road; that Mr. Cote noted that there was a generally accepted capacity of 1,700 vehicles per hour in each direction and 3,200 vehicles per hour in both directions for a road of that nature; that the peak hour trips projected to be generated were 137, and therefore there was adequate capacity as the project did not approach anything close to those type of vehicles per hour in either direction; that within the project book, there were a number of items; that in addition, there were references to various Chapters, not only Chapter 4 of the Comprehensive Plan, but other ways that the application complied with Chapter 5 regarding Conservation, Chapter 6 regarding Recreation and Open Space, Chapter 7 regarding Utilities, Chapter 8 regarding Housing, and Chapter 12 regarding Community Design; that with respect to the Coastal Areas, the Comprehensive Plan stated that there should be a range of housing types, including single family homes, townhomes, and multifamily units, going on to state that medium and higher densities, of four to 12 units per acre could be appropriate in certain locations, where supported by central water and sewer, and when near sufficient commercial uses and employment centers, where it would be keeping in character of the area, and where located along a main road or at/near a major intersection, where adequate level of service, or whether there are other considerations that exist, which were relevant to the requested project and density; that the application's purpose of the General Residential (GR) District was to provide for medium density residential use; that the application was not considered a medium density residential use, as it did not propose four to 12 units to the acre; that not only was the proposed density below the Comprehensive Plans definition of medium to high density, that both the net or RPC density of 3.3 units to the acre, as well as the gross density of 2.86 units to the acre are short by nearly a unit to the acre of the base

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density within the GR (General Residential) District, which allowed a subdivision with 10,000 square foot lots, equaling a base density of the GR (General Residential) Zoning District at 4.3 units per acre; that the proposed application was well below that number; that the property was located within an area where central water and sewer would be provided; that there are plenty of commercial uses and employment centers along Route 24; that the proposed project would be keeping within the character of the area; that there were various existing communities within the area, creating the project to be considered an infill project; that the intersection of Route 24 and Legion Road was considered a major intersection and will likely become more major after the traffic signal would be placed; that as demonstrated in the Traffic Analysis performed by the Rossi Group, there was an adequate level of service; that Super Design elements required as part of the RPC plan included the Resource Buffer Protection requirements, and all the additional woods added along the resource; that the resource itself was actually within the Peninsula Lakes property, however the Tide Pines site would be located adjacent to it; that the design proposed to provide a resource buffer of 30 feet, and additionally the acres of woods to surround that resource buffer; that the application exceeded the Open Space requirements by providing 43% open space, located in one block of land, adjacent to the resource that was being protected; that one of the goals of any RPC was to protect existing and future developments; that this was achieved by increasing the perimeter buffers, with a significant buffer provided adjacent to Peninsula Lakes, with all other adjacent properties receiving the benefit of not only the 30 foot perimeter buffer, but along the southern and western boundary the additional buffer protection area; that the application also proposed that the agricultural separation distance be treated as a setback; that the project included walking trails, sidewalks on one side of the street and amenities for all of the residents; that the result of all of these things was a superior design development that conformed with the standard of the Comprehensive Plan, as well as the principles of civic design, land use planning and landscape architecture; that within RPC districts, it was permitted to modify some of the typical Bulk Area standards, as part of the design and ingenuity for the RPC; that on Page 5, Condition B of the proposed Conditions of Approval, the application, with respect to single-family homes, proposed a Front Yard Setback of 20 feet with a Side Yard Setback of eight (8) feet; that with respect to the townhomes, the application proposed a Front Yard Setback of 20 feet, with a Rear Yard Setback of ten (10) feet, with a required 30 feet, rather than 40 feet; that the proposed setbacks allowed for more compact lots, which allowed for the greater protection of open space and the perimeter buffer; that the Applicant would make a \$500 contribution to the Indian River Volunteer Fire Company, equaling a total contribution of \$90,500 by the build out of the project.

There were no public comments.

The Public Hearing and public record were closed.

**M 305 26
Defer
Action/
CZ3032**

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to defer action on a 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 (181 DWELLING UNITS) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 63.28 ACRES, MORE OR LESS”.

Motion Adopted: 5 Yeas

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

**M 306 26
Adjourn**

A Motion was made by Mr. Lloyd, seconded by Mr. Rieley to adjourn at 4:15 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.}