

## **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 13, 2017**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 13, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>George B. Cole</b>	<b>Vice President</b>
<b>Irwin G. Burton III</b>	<b>Councilman</b>
<b>Samuel R. Wilson Jr.</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore Jr.</b>	<b>County Attorney</b>

**Councilman Arlett was absent.**

**The Invocation and Pledge of Allegiance were led by Mr. Vincent.**

### **Call to Order**

**Mr. Vincent called the meeting to order.**

### **M 261 17 Approve Agenda**

**A Motion was made by Mr. Wilson, seconded by Mr. Burton, to approve the agenda, as posted.**

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

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

### **Minutes**

**The minutes of June 6, 2017 were approved by consent.**

### **Corre- spondence**

**Mr. Moore read the following correspondence:**

**VETERANS RESOURCE CENTER, DELAWARE TECHNICAL &  
COMMUNITY COLLEGE, GEORGETOWN, DELAWARE.  
RE: Letter in appreciation of grant.**

### **Public Comments**

#### **Public Comments**

**Dan Kramer commented on the audio system in Council Chambers.**

### **Legislative Update**

#### **Legislative Update**

**Mr. Lawson and Mr. Vincent provided a legislative update; legislation discussed was Senate Bill 99, House Bill 44, Senate Bill 64, House Bill 89, House Bill 83, House Bill 130, House Bill 187, and House Bill 209.**

**Adminis-  
trator's  
Report**

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

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

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Conference Planning Subcommittee will meet on Monday, June 19<sup>th</sup>, at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. During the meeting, the Subcommittee will continue to discuss planning for the annual conference scheduled for October 18<sup>th</sup>.

**2. Winding Creek Village Water District Public Hearing**

The Sussex County Engineering Department will be conducting a public hearing on the boundaries of the Winding Creek Village Water District on Thursday, June 15<sup>th</sup>, starting at 6:00 p.m. at Conley's United Methodist Church on Jolyns Way in Lewes.

**FY 2018  
Budget and  
Proposed  
Ordinances**

Mrs. Jennings presented the Fiscal Year 2018 Budget and related Proposed Ordinances. It was noted that the full budget presentation was given at the May 16th Council meeting, at which time staff outlined the proposals within the Proposed Budget.

**Public  
Hearing/  
Proposed  
Ordinance/  
Clerk of  
the Peace  
Office/  
Marriage  
Bureau**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 62, ARTICLE V., SECTION 62-16 OF THE CODE OF SUSSEX COUNTY TO CONFORM TO THE DELAWARE CODE WHICH PROHIBITS CIVIL UNIONS AS OF JULY 1, 2013, AND TO INCREASE FEES CHARGED BY THE CLERK OF THE PEACE TO PERFORM MARRIAGE CEREMONIES OUTSIDE OF THE OFFICE OF THE CLERK OF THE PEACE FOR SUSSEX COUNTY, AND TO INSTITUTE A FEE TO RECORD EACH MARRIAGE WITH THE MARRIAGE BUREAU".

**Synopsis:** This Ordinance deletes all references to civil unions to be consistent with Title 13, Chapter 2, Civil Unions, Section 218(a) of the Delaware Code which prohibits civil unions as of July 1, 2013. This Ordinance also increases the fees the Clerk of the Peace charges to Delaware residents and non-Delaware residents for marriage ceremonies performed outside of the office of the Clerk of the Peace for Sussex County, and institutes a \$20 fee for recording each marriage with the Marriage Bureau.

There were no public comments and the Public Hearing was closed.

**M 262 17  
Adopt  
Ordinance  
No. 2499**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to Adopt Ordinance No. 2499 entitled "AN ORDINANCE TO AMEND CHAPTER 62, ARTICLE V., SECTION 62-16 OF THE CODE OF SUSSEX COUNTY

M 262 17  
(continued)

**TO CONFORM TO THE DELAWARE CODE WHICH PROHIBITS CIVIL UNIONS AS OF JULY 1, 2013, AND TO INCREASE FEES CHARGED BY THE CLERK OF THE PEACE TO PERFORM MARRIAGE CEREMONIES OUTSIDE OF THE OFFICE OF THE CLERK OF THE PEACE FOR SUSSEX COUNTY, AND TO INSTITUTE A FEE TO RECORD EACH MARRIAGE WITH THE MARRIAGE BUREAU”.**

**Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.**

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

**Public  
Hearing/  
Proposed  
Ordinance  
Limiting  
First Time  
Home  
Buyer’s  
RTT  
Exception**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 103, ARTICLE IV, SECTION 103-19D. OF THE CODE OF SUSSEX COUNTY TO LIMIT THE “FIRST-TIME HOME BUYER” TRANSFER TAX EXCEPTION TO THE GRANTEE’S ONE-HALF OF THE SUSSEX COUNTY REALTY TRANSFER TAX”.**

**Synopsis: This Ordinance amends Sussex County Code, Chapter 103, Article IV, Section 103-19D. to provide that the first-time home buyer exception to the Sussex County transfer tax shall apply solely to the grantee’s portion of the transfer tax as defined in Section 103-19A. Grantor shall still be subject to payment of grantor’s portion of the transfer tax as defined in Section 103-19A.**

**Mr. Moore suggested several amendments to the Proposed Ordinance for the Council’s consideration: “WHEREAS, for purposes of the first-time home buyer exception, grantor and grantee shall be prohibited from contractually modifying the apportionment of the transfer tax as stated in Section 103-19A to decrease the grantor’s portion of the transfer tax.”**

**Amended Synopsis (if amendment is approved): This Ordinance amends Sussex County Code, Chapter 103, Article IV, Section 103-19D, to provide that the first-time home buyer exception to the Sussex County transfer tax shall apply solely to the grantee’s portion of the transfer tax as defined in Section 103-19A. Grantor shall still be subject to payment of grantor’s portion of the transfer tax as defined in Section 103-19A. The grantor and grantee shall be prohibited from contractually modifying the apportionment of the transfer tax as stated therein to decrease the grantor’s portion of the transfer tax. This provision shall apply to all contracts entered into as of July 1, 2017.**

**Public comments were heard.**

**Dan Kramer questioned if the Proposed Ordinance constitutes first-time home buyers the same way as the State currently does.**

(continued) Mr. Moore responded in the affirmative.

There were no additional public comments and the Public Hearing was closed.

M 263 17  
Approve  
Amend-  
ments to  
Proposed  
Ordinance  
Relating  
to First  
Time  
Home  
Buyers  
RTT  
Exception

A Motion was made by Mr. Cole, seconded by Mr. Burton, to approve the amendments to the Proposed Ordinance, as read by Mr. Moore:

After the third WHEREAS, add the following at the end of the paragraph: (typically one-half (1/2) of the total Sussex County transfer tax) ;

After the fourth WHEREAS, add the following at the end of the paragraph: (typically one-half (1/2) of the total Sussex County transfer tax); and ;

After the fourth paragraph, add an additional paragraph stating: WHEREAS, for purposes of the first-time home buyer exception, grantor and grantee shall be prohibited from contractually modifying the apportionment of the transfer tax as stated in Section 103-19A to decrease the grantor's portion of the transfer tax.

Amend Paragraph D, as follows:

[There shall be no tax imposed on those]~~Unless otherwise agreed to by the parties, o~~On transfers where all grantees qualify as first-time home buyers, no transfer tax shall be imposed on the grantee's portion of any transfer tax as defined in § 103-19A. hereof. For purposes of this article, "first-time home buyer" shall have that meaning given in §103-18H. The first-time home buyer exception shall apply only to the grantee's portion of the transfer tax as defined in § 103-19A, hereof and shall not relieve the grantor from payment of grantor's portion of the transfer tax as defined in § 103-19A. hereof. For purposes of the first-time home buyer exception, grantor and grantee shall be prohibited from contractually modifying the apportionment of the transfer tax as set forth in § 103-19A. to decrease the grantor's portion of the transfer tax. This provision shall apply to all contracts entered into as of July 1, 2017, the effective date hereof."

Motion Adopted: 4 Yeas, 1 Absent.

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

M 264 17  
Adopt  
Ordinance  
No. 2500

A Motion was made by Mr. Cole, seconded by Mr. Burton, to Adopt Ordinance No. 2500 entitled "AN ORDINANCE TO AMEND CHAPTER 103, ARTICLE IV, SECTION 103-19D. OF THE CODE OF SUSSEX COUNTY TO LIMIT THE "FIRST-TIME HOME BUYER" TRANSFER TAX EXCEPTION TO THE GRANTEE'S ONE-HALF OF THE SUSSEX COUNTY REALTY TRANSFER TAX", as amended.

**M 264 17**  
**(continued)**

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

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

**Public  
Hearing/  
Proposed  
Ordinance  
Relating to  
RTT  
Distribution  
to Muni-  
cipalities**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 103, ARTICLE IV, § 103-29.1 OF THE CODE OF SUSSEX COUNTY TO MODIFY SUSSEX COUNTY’S REALTY TRANSFER TAX DISTRIBUTION TO INCORPORATED MUNICIPALITIES WHICH DO NOT COLLECT REALTY TRANSFER TAX OR WHICH COLLECT REALTY TRANSFER TAX BUT RECEIVE LESS THAN \$20,000 IN REVENUE DURING ANY FISCAL YEAR”.**

**Synopsis: This Ordinance amends Sussex County Code, Chapter 103, Article IV, § 103-29.1 to provide that the county’s distribution to any incorporated municipality within Sussex County which does not collect a realty transfer tax, or which collects a realty transfer tax but which during its fiscal year receives less than \$20,000 in revenue from its realty transfer tax, shall receive a county distribution equal to the difference between the total realty transfer tax revenue collected by the municipality during any given fiscal year and \$20,000, with the exception of the City of Milford which shall receive a fixed \$10,000.00 distribution each fiscal year.**

**There were no public comments and the Public Hearing was closed.**

**M 265 17**  
**Adopt**  
**Ordinance**  
**No. 2501/  
Ordinance**  
**Relating to**  
**RTT**  
**Distribution**  
**to Muni-  
cipalities**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2501 entitled “AN ORDINANCE TO AMEND CHAPTER 103, ARTICLE IV, § 103-29.1 OF THE CODE OF SUSSEX COUNTY TO MODIFY SUSSEX COUNTY’S REALTY TRANSFER TAX DISTRIBUTION TO INCORPORATED MUNICIPALITIES WHICH DO NOT COLLECT REALTY TRANSFER TAX OR WHICH COLLECT REALTY TRANSFER TAX BUT RECEIVE LESS THAN \$20,000 IN REVENUE DURING ANY FISCAL YEAR”.**

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

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

**Public  
Hearing/  
Assessment  
Rolls for  
Sewer and  
Water  
Districts**

**A Public Hearing was held on the Assessment Rolls for Sewer and Water Districts. Mrs. Jennings reported that the Assessment Rolls reflect the County’s records for equivalent dwelling units (EDUs) and billable front footage for each sewer and water district. These records have been made available in the billing office for public inspection and review. These records are subject to individual appeal via the Board of Assessment Review. Mrs. Jennings noted that this Public Hearing is on the list of properties and applicable front footage and EDUs that will be billable by**

<b>Public Hearing (continued)</b>	<p>the rates established in the rate ordinance.</p> <p>There were no public comments and the Public Hearing was closed.</p> <p>Mr. Cole commented on unit pricing.</p>
<b>M 266 17 Adopt Assessment Rolls</b>	<p>A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council hereby adopts the assessment rolls for all Sussex County sanitary sewer and water districts for the period July 1, 2017 through June 30, 2018.</p> <p><b>Motion Adopted:      4 Yeas, 1 Absent.</b></p> <p><b>Vote by Roll Call:    Mr. Arlett, Absent; Mr. Burton, Yea;                                  Mr. Wilson, Yea; Mr. Cole, Yea;                                  Mr. Vincent, Yea</b></p>
<b>Public Hearing/ Proposed Ordinance Relating to Charges &amp; Rates for Sewer and Water Districts</b>	<p>A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.</p> <p>Mrs. Jennings reviewed highlights in the sewer and water budget.</p> <p>There were no public comments and the Public Hearing was closed.</p>
<b>M 267 17 Adopt Ordinance No. 2502</b>	<p>A Motion was made by Mr. Cole, seconded by Mr. Burton, to Adopt Ordinance No. 2502 entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.</p> <p><b>Motion Adopted:      4 Yeas, 1 Absent.</b></p> <p><b>Vote by Roll Call:    Mr. Arlett, Absent; Mr. Burton, Yea;                                  Mr. Wilson, Yea; Mr. Cole, Yea;                                  Mr. Vincent, Yea</b></p>
<b>Public Hearing/ Proposed Ordinance/ Annual Operating Budget</b>	<p>A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2018”.</p> <p>Mrs. Jennings reviewed highlights of the annual operating budget.</p> <p>Public comments were heard.</p>

**Public  
Hearing  
(continued)**

**Dan Kramer questioned what the actual budget document is, i.e. the budget ordinance that was advertised or the budget booklet. Mr. Kramer also commented on prior wage increases not received by employees.**

**Mrs. Jennings and Mr. Vincent addressed Mr. Kramer's concerns.**

**There were no additional public comments and the Public Hearing was closed.**

**M 268 17  
Adopt  
Ordinance  
No. 2503**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2503 entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2018".**

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

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

**General  
Labor &  
Equipment  
Contract/  
Project  
#17-01/  
C/O and  
Contract  
Extension**

**Hans Medlarz, County Engineer, presented a Change Order request for the General Labor & Equipment Contract, Project #17-01, as well as a request for a one year contract extension. The Change Order is due to differing site conditions at various pump stations which forced additional work and created an overage in time and materials and also due to issues and site conditions at the Airport. Mr. Medlarz noted that, in order to close out this Fiscal Year and the project previously authorized, a Change Order is being requested in the amount of \$150,000.00. Mr. Medlarz recommended exercising the option year; next fiscal year, the project will be re-advertised.**

**M 269 17  
Approve  
Change  
Order/  
General  
Labor &  
Equipment  
Contract/  
Project  
#17-01**

**A Motion was made by Mr. Cole, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that Change Order No. 5 for Contract No. 17-01, FY 17 General Labor & Equipment Contract, be approved, increasing the contract amount by \$150,000.00 for a new total of \$3,543,254.80.**

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

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

**M 270 17  
Approve  
One Year  
Contract  
Extension/  
Project  
#17-01**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, to approve a one year contract extension for the General Labor & Equipment Contract (FY 18) in the amount of \$4,300,000.00, not including any emergency repairs.**

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

**M 270 17  
(continued)**

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

**Taxiway C  
Project/  
Project  
#17-02/  
Bid  
Recom-  
mendation**

**Mr. Medlarz presented the bid results for Taxiway C Pavement Rehabilitation, Phase I, Project #17-02. He noted that this is part of the Pavement Preventative Maintenance Program which regularly assesses the strength and condition of all airfield pavements. He also noted that there have been issues with Taxiway C and the follow-up evaluation showed that there are deficiencies to be addressed. The project will be in two phases; one in Fall 2017 and one in Spring 2018. Mr. Medlarz reported that three bids were received and that George & Lynch, Inc. was the apparent low bidder at the bid amount of \$560,008.00. The Engineering Department recommends awarding the project to George & Lynch, Inc.**

**M 271 17  
Award  
Bid/  
Taxiway C  
Project/  
Project  
#17-02**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that Contract 17-02, Taxiway C Pavement Rehab, Phase I, be awarded to George & Lynch, Inc. of Dover, Delaware, at the total bid amount of \$560,008.00.**

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

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

**Tidewater  
Landing/  
Use of  
Existing  
Infra-  
structure  
Agreement**

**John Ashman, Director of Utility Planning, presented a request for approval of an Agreement for the Use of Existing Infrastructure with CMF Tidewater Landing, LLC for the Tidewater Landing Project in the Goslee Creek Area. He reported that, under the proposed arrangement, wastewater from the Tidewater Landing development will be connected to an existing regional forcemain and, in return, for utilization of said infrastructure, CMF Tidewater Landing, LLC will contribute \$84,097.69 for the perpetual use of these transmission facilities; payment will be due prior to receiving Substantial Completion of the project's onsite pump station.**

**M 272 17  
Execute  
Use of  
Existing  
Infra-  
structure  
Agreement/  
Tidewater  
Landing**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council President is authorized to execute the Use of Existing Infrastructure Agreement between Sussex County and CMF Tidewater Landing, LLC for the Tidewater Landing Project, as presented on June 13, 2017.**

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

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



- Mount Joy Oak Street Proposed SLD**      **Patti Deptula, Director of Special Projects, presented a request to circulate petitions for the Mount Joy - Oak Street Community to submit the question of organizing a Streetlighting District in accordance with Sussex County Code, Chapter 95 – Streetlighting. Ms. Deptula presented the proposed Streetlighting District boundaries. She noted that there are 21 tax parcels in the District boundary; however, only 17 are assessable.**
- M 273 17 Circulate Petition Form/ Mount Joy Oak Street Proposed SLD**      **A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council has determined the community known as “Mount Joy – Oak Street”, satisfies the criteria of a Suburban Community, as defined in Chapter 95 of the Sussex County Streetlighting Code, Paragraph 95-1, and authorizes the Sussex County Engineering Department to circulate the petition form to determine if a Streetlighting District may be established, as required by Chapter 95 of the Sussex County Streetlighting Code.**
- Motion Adopted:      4 Yeas, 1 Absent.**
- Vote by Roll Call:      Mr. Arlett, Absent; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**
- Grant Requests**      **Mrs. Jennings presented grant requests for the Council’s consideration.**
- M 274 17 Councilmanic Grant**      **A Motion was made by Mr. Cole, seconded by Mr. Burton, to give \$700.00 from Mr. Vincent’s Councilmanic Grant Account to Eastern Shore AFRAM Festival for expenses.**
- Motion Adopted:      4 Yeas, 1 Absent.**
- Vote by Roll Call:      Mr. Arlett, Absent; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**
- M 275 17 Countywide Youth Grant**      **A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$1,000.00 from Countywide Youth Grants to the Delaware National Guard Youth Foundation for summer recreational camp.**
- Motion Adopted:      4 Yeas, 1 Absent.**
- Vote by Roll Call:      Mr. Arlett, Absent; Mr. Burton, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Vincent, Yea**
- M 276 17 Councilmanic Grant**      **A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$5,000.00 from Mr. Cole’s Councilmanic Grant Account to the Rehoboth Art League for a building project.**
- Motion Adopted:      4 Yeas, 1 Absent.**

**M 276 17**  
**(continued)**

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

**Introduction of Proposed Ordinances**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.58 ACRES, MORE OR LESS” (Change of Zone No. 1829) filed on behalf of Theresa Elizabeth Murray Irrevocable Trust. (Tax I.D. No. 134-9.00-70.00) (911 Address: Not Available).

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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 24.98 ACRES, MORE OR LESS” (Change of Zone No. 1830) filed on behalf of H. Dale Parsons. (Tax I.D. No. 135-16.00-23.00) (911 Address: Not Available).

The Proposed Ordinances will be advertised for Public Hearing.

**M 277 17**  
**Go Into Executive Session**

At 11:13 a.m., a Motion was made by Mr. Cole, seconded by Mr. Burton, to recess the Regular Session and go into Executive Session to discuss a matter relating to pending litigation.

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

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

**Executive Session**

At 11:15 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing a matter relating to pending litigation. The Executive Session concluded at 11:38 a.m.

**M 278 17**  
**Reconvene Regular Session**

At 11:40 a.m., a Motion was made by Mr. Burton, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.

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

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

- E/S Action**      **There was no action on the Executive Session matter.**
- M 279 17**      **At 11:40 a.m., a Motion was made by Mr. Burton, seconded by Mr. Cole, to**  
**Recess**      **recess until 1:30 p.m.**
- Motion Adopted:**      **4 Yeas, 1 Absent.**
- Vote by Roll Call:**      **Mr. Arlett, Absent; Mr. Burton, Yea;**  
                                 **Mr. Wilson, Yea; Mr. Cole, Yea;**  
                                 **Mr. Vincent, Yea**
- M 280 17**      **At 1:34 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Burton**  
**Reconvene**      **to reconvene.**
- Motion Adopted:**      **4 Yeas, 1 Absent.**
- Vote by Roll Call:**      **Mr. Arlett, Absent; Mr. Burton, Yea;**  
                                 **Mr. Wilson, Yea; Mr. Cole, Yea;**  
                                 **Mr. Vincent, Yea**
- Public**      **A Public Hearing was held on the Proposed Ordinance entitled “AN**  
**Hearing/**      **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR**  
**CU 2076**      **GENERAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE**  
                         **LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN**  
                         **BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 62.157**  
                         **ACRES, MORE OR LESS” (Conditional Use No. 2076) filed on behalf of**  
                         **Joseph Mark Zduriencik (Tax I.D. No. 533-18.00-20.01-20.10) (911**  
                         **Address: None Available).**
- The Planning and Zoning Commission held a Public Hearing on this**  
**application on May 11, 2017 at which time the application was deferred.**  
**On June 8, 2017, the Commission recommended that the application be**  
**approved, with the following conditions:**
- a. All events shall end no later than 11:00 p.m.**
  - b. Food and beverage service and music or similar entertainment is permitted.**
  - c. Portable toilet facilities may be permitted during any event as needed.**
  - d. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.**
  - e. The interior drive and parking area shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.**
  - f. All entrance locations shall be subject to the review and approval of DeIDOT.**
  - g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**
- (See the minutes of the Planning and Zoning Commission dated May 11 and June 8, 2017.)**

**Public  
Hearing/  
CU 2076  
(continued)**

**Janelle Cornwell, Director of Planning and Zoning, presented a summary of the Commission's Public Hearing and recommendation of approval.**

**The Council found that Joseph Mark Zduriencik was present on behalf of his application. He stated that the proposed use is primarily for a wedding venue and possibly other events like business gatherings and family gatherings/reunions; that he does not propose that any concerts will be held on the site; that at first, it will be tented events and if it is successful, he may build a barn; that he owns all of the lots on the parcel; that he is willing to limit the number of people on the property; that he does not have any intention of selling the other lots; and that he does not have any problem with a condition stating that the use is allowed so long as he does not sell any lots.**

**There were no public comments and the Public Hearing was closed.**

**Mr. Burton stated that he prefers that a condition be added so that a potential buyer is aware of the proposed use if he chooses to purchase a lot, i.e. a stipulation in a deed.**

**In response to Mr. Burton's concern, Mr. Moore read the following proposed condition:**

**If any lots in the subdivision are sold, then the contract and the deeds are to contain language notifying future owners of the event venue.**

**M 281 17  
Approve  
New  
Condition/  
CU 2076**

**A Motion was made by Mr. Wilson, seconded by Mr. Burton, to approve a new condition stating "If any lots in the subdivision are sold, then the contract and the deeds are to contain language notifying future owners of the event venue."**

**Motion Adopted: 3 Yeas, 1 Abstention, 1 Absent.**

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

**(Mr. Cole abstained due to a potential conflict of interest.)**

**M 282 17  
Adopt  
Ordinance  
No. 2504/  
CU 2076**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2504 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN EVENT VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 62.157 ACRES, MORE OR LESS" (Conditional Use No. 2076) filed on behalf of Joseph Mark Zduriencik, with the following conditions, as amended:**

**M 282 17  
Adopt  
Ordinance  
No. 2504/  
CU 2076  
(continued)**

- a. All events shall end no later than 11:00.
- b. Food and beverage service and music or similar entertainment is permitted.
- c. Portable toilet facilities may be permitted during any event as needed.
- d. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County Roads.
- e. The interior drive and parking area shall contain sufficient space for vehicles and shuttle buses to turn around completely on the site.
- f. All entrance locations shall be subject to the review and approval of DelDOT.
- g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.
- h. If any lots in the subdivision are sold, then the contract and the deeds are to contain language notifying future owners of the event venue.

**Motion Adopted: 3 Yeas, 1 Abstention, 1 Absent.**

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

**(Mr. Cole abstained due to a potential conflict of interest.)**

**Public  
Hearing/  
CU 2075**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY (100 TOWNHOUSE UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30.95 ACRES, MORE OR LESS” (Conditional Use No. 2075) filed on behalf of Burton’s Pond, LLC (Burton’s Pond Section II)) (Tax I.D. No. 234-17.00-29.00 (portion of)) (911 Address: None Available).**

**The Planning and Zoning Commission held a Public Hearing on this application on April 6, 2017 at which time action was deferred. On May 11, 2017 the Commission recommended approval with the following conditions:**

- A. There shall be no more than 100 townhouse units within the project.**
- B. The Applicant shall create a fee simple townhome community which will be part of the Burton Pond Communities Homeowners Association, possibly through a separate sub-homeowners association, to be responsible for the maintenance of streets, roads, buffers, stormwater management facilities, and other common areas including the Environmental Management Plan for Burton’s Pond as stated in the conditions for Burton’s Pond Section I.**
- C. The project shall be served by a central sewer system in accordance with the Sussex County Engineering Department specifications and in conformity with all DNREC regulations as part of the Sussex County Unified Sanitary Sewer District North Coastal Planning Area.**

**Public  
Hearing/  
CU 2075  
(continued)**

- D. The project shall be served by a publicly regulated central water system providing drinking water and fire protection as required by applicable regulations through Tidewater Utilities, Inc.**
- E. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements including the requirements of the Sussex Conservation District and PCS. The Applicant, its successors and assigns shall operate the stormwater management facilities utilizing Best Management Practices (BMP) and Best Available Technologies (BAT). 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.**
- F. All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT. In addition, the relocation of Sloan Road shall be completed within the first phase of the development.**
- G. The recreational amenities in Section II shall be constructed and open to the use by residents upon the issuance of the 50th residential building Certificate of Occupancy for Section II.**
- H. Streetlighting shall be provided and the location of the streetlights shall be shown on the Final Site Plan.**
- I. Sidewalks shall be installed on one side of all streets within the project and shall be shown on the Final Site Plan. There shall also be walking, jogging, and bike paths throughout the subdivision as shown on the Preliminary Site Plan.**
- J. The undisturbed forested areas shall be shown on the Final Site Plan.**
- K. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- L. A school bus stop area with parking shall be located within the project. The Developer shall coordinate and cooperate with the local school district's transportation manager to establish the school bus stop area. The location of the bus stop area, with the approval of the local school district, shall be shown on the Final Site Plan.**
- M. The Applicant shall provide agricultural buffers and wetland buffers, as necessary, in accordance with the applicable regulations. The Agricultural Use Notice shall be included in covenants, conditions, and restrictions or instruments of conveyance.**
- N. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.**
- O. The Developer shall design and install a landscape buffer of berms and plantings running South to North along the entire property boundary with John J. Williams Highway (Route 24) and running East to West along the entire property boundary with the relocated Sloan Road (County Road 49). The Final Site Plan shall contain a landscape plan showing the proposed design and vegetation of all landscape buffer areas.**
- P. The interior street design shall be in accordance with or exceed Sussex County street requirements and/or specifications. Street design shall include curbs, sidewalks, and street lighting.**

**Public  
Hearing/  
CU 2075  
(continued)**

- Q. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Friday between the hours of 7:00 a.m. and 6:00 p.m. and Saturday between the hours of 8:00 a.m. and 1:00 p.m.**
- R. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Sussex County Office of Planning and Zoning.**
- S. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**(See the minutes of the Planning and Zoning Commission dated April 6 and May 11, 2017.)**

**Janelle Cornwell, Director of Planning and Zoning, presented a summary of the Commission's Public Hearing and recommendation of approval.**

**It was noted that an Exhibit Booklet was previously distributed to the Council and that the map included in the Booklet is the most recent and current map/plan (showing the new 50 foot buffer).**

**The Council found that David Hutt, Attorney, was present with Zach Crouch of Davis, Bowen & Friedel, and Ben Gordy, a Senior Project Manager and Realtor with Ocean Atlantic. They described the project known as Burtons Pond Section II including the size of the project, buffers, setbacks, stormwater management, site plan, compatibility with the area, Traffic Impact Study, realignment of Sloan Road, and compliance with the Comprehensive Land Use Plan and the Investment Level 2 Area.**

**Mr. Hutt reported that, in 2007, a Change of Zone was approved for this site. At that time, a MR-RPC application was approved; however, the RPC portion of the application has since expired; that a subdivision application was filed for a property on the other side of Route 24 and received preliminary approval on January 26, 2017; and that this application is for 100 townhomes on approximately 31 acres of land along John J. Williams Highway and Sloan Road.**

**Mr. Crouch reviewed the site plan and noted a change made based on comments made at the Planning and Zoning Commission's Public Hearing, which is that a 30 foot buffer was increased to a 50 foot buffer. He reported on the Traffic Impact Study, the relocation of Sloan Road, the design of a new intersection, the future plan for a new signal light at the intersection, and the improvements that are required by DelDOT. He noted that there will be no direct access off of Route 24. Mr. Crouch reviewed the proposed amenities and the preservation of open space, including woodlands.**

**Public  
Hearing/  
CU 2075  
(continued)**

**Mr. Gordy discussed correspondence sent to, and meetings held with, area property owners. He reported that there is no evidence of a decrease in property values due to a multi-family development. Mr. Gordy referenced other communities and sale prices.**

**At the conclusion of the Applicant's presentation, Mr. Moore suggested an amendment to the Planning and Zoning Commission's Condition F by adding the following: The Sloan Road relocation shall occur prior to the First Certification of Completion (prior to the first house).**

**Public comments were heard.**

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

**The following people spoke in opposition to the application: Myrta Sale, Arnold Pitman, Norma Parks and Leslie Skeen. The stated that the proposed project, with its high density, is not compatible with the area; that the townhomes can be moved to the other side of Route 24; that the lack of visibility in this area, along the curve in the road on Route 24 will create a traffic hazard; that many accidents occur in this area now and this project will result in many more; that a traffic light is imperative and should not be delayed; that they question what will happen on the parcel on the other side of the reconfigured Sloan Road; that the proposal should be for one acre lots; that the proposed project is inappropriate for this area; that there will be tree removal; that the Applicant could maintain the woods with single family homes; that there will be 2,000 people on both sides of Route 24 coming out to the intersection; that 500 to 1,000 cars will come out of this development; that the pool cannot accommodate the number of residents; that their quality of life and property values will be negatively affected; that the surrounding areas need to be considered; and that the project would change the character of the area.**

**(Norma Parks submitted her comments, in writing.)**

**There were no additional public comments.**

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

**The Council discussed delaying the vote on this application until Councilman Arlett has the opportunity to listen to the audio of the meeting so that he can participate in the vote since the project is located in his District.**

**Mr. Cole suggested requesting additional information from DelDOT regarding the plan for a traffic signal at the Sloan Road intersection.**

**M 283 17  
Defer  
Action on  
CU 2075**

**A Motion was made by Mr. Cole, seconded by Mr. Burton, to defer action on Conditional Use No. 2075 filed on behalf of Burton's Pond, LLC (Burton's Pond Section II)) and to request additional information from**



**M 283 17**      **DelDOT regarding the timing of (schedule for) the traffic signal.**  
**(continued)**

**Motion Adopted:      3 Yeas, 1 Nay, 1 Absent.**

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

**M 284 17**      **A Motion was made by Mr. Burton, seconded by Mr. Cole, to adjourn at**  
**Adjourn**      **3:16 p.m.**

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

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

**Respectfully submitted,**

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

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