

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 18, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 18, 2019, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

| | |
|------------------------------|-----------------------------|
| Michael H. Vincent | President |
| Irwin G. Burton III | Vice President |
| Douglas B. Hudson | Councilman |
| John L. Rieley | Councilman |
| Samuel R. Wilson Jr. | Councilman |
| Todd F. Lawson | County Administrator |
| Gina A. Jennings | Finance Director |
| J. Everett Moore, Jr. | County Attorney |

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 305 19
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to amend the Agenda by deleting #2B under Hans Medlarz, County Engineer, to delete “Introduction of Proposed Zoning Ordinances”, and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of June 11, 2019 were approved by consent.

**Corre-
spondence**

Correspondence

**BRIDGEVILLE SENIOR CENTER, BRIDGEVILLE, DELAWARE.
RE: Letter in appreciation of contribution.**

**Public
Comments**

A public comment period was held and the following people spoke: Jim Martin, Craig Givens (President of Lewes Fire Department), Hunter Holland (Sussex County Firefighters Association), Ken Bock (CEO of CHEER), and Dan Kramer.

It was noted that the comments of Craig Givens, Hunter Holland, and Ken Bock will be incorporated into the public comments of the Public Hearing on the Fiscal Year 2020 Budget Ordinance.

**Public Hearing/
Assessment
Rolls**

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 the rates established in the rate ordinance.

There were no public comments.

The Public Hearing and public record were closed.

**M 306 19
Adopt
Assessment
Rolls**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council hereby adopts the Assessment Rolls for all Sussex County sanitary sewer and water districts for the period July 1, 2019 through June 30, 2020.

Motion Adopted: 5 Yeas.

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

**Public Hearing/
Proposed
Sewer and
Water
Rates
Ordinance**

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".

Mrs. Jennings reviewed highlights of the sewer and water budget. (A comprehensive presentation was given at the May 21, 2019 Council meeting.)

There were no public comments.

The Public Hearing and public record were closed.

**M 307 19
Adopt
Ordinance
No. 2659**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, to Adopt Ordinance No. 2659 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".

Motion Adopted: 5 Yeas.

**M 307 19
(continued)**

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

**Public
Hearing/
Proposed
Ordinance/
Fiscal
Year 2020
Budget**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2020”.

Mrs. Jennings reviewed highlights of the \$185.8 million annual operating budget for Fiscal Year 2020 and presented information on proposed changes in Register of Wills fees and Public Works Division fees. Mrs. Jennings also reviewed several grant allocations in the proposed budget. (A comprehensive presentation was given at the May 21, 2019 Council meeting.)

Public comments were heard.

Craig Stevens, President of the Lewes Fire Department, spoke in regards to the growth/development in Sussex County and the higher volume of emergency calls. Mr. Stevens thanked Council for past funding and asked that Council consider increased funding. Mr. Stevens also referenced the increase in funding for the libraries and noted that there is no line item increase for the fire companies.

Hunter Holland, Sussex County Firefighters Association, thanked the Council for its continued support.

Ken Bock, Chief Executive Officer of CHEER, thanked Council for its financial support of CHEER’s kitchen campaign.

Diane Young (Sussex County Library Advisory Board), Allison Miller (Rehoboth Beach Library), and Kelly Kline (Selbyville Library) thanked the Council for its continued financial support of the libraries.

Bob Longo, Milton Police Chief and President of the Sussex County Police Chiefs’ Association, thanked the Council for the increase in funding in the Proposed Budget.

Dan Kramer commented on the COLA included in the proposed budget for County employees. He also commented on the proposed budget, generally.

Cindy Green commented on the new fees proposed by the Register of Wills Department: storage of wills and online access for the legal community.

Dennis Pikalow raised a question about the sports complex funding. He stated that the County is underserved from a recreational standpoint and suggested that the County partner with the YMCA.

Public Hearing/ Proposed Ordinance/ Fiscal Year 2020 Budget (continued) **Tamika Hopkins of the YMCA thanked the Council for its past support and asked Council to consider supporting the YMCA’s LiveStrong program.**
Paul Reiger raised a question about the sports complex funding.
There were no additional public comments.
The Public Hearing and public record was closed.

M 308 19 Adopt Ordinance No. 2660 **A Motion was made by Mr. Burton, seconded by Mr. Rieley, to Adopt Ordinance No. 2660 entitled “AN ORDINANCE ESTABLISHING ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2020”.**
Motion Adopted: 5 Yeas.
Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

Balloon Festival Presentation **Gina Derrickson, Director of Development for Sussex Academy Foundation, reported on the Hot Air Balloon Festival (Balloons Over Sussex) which will be held at the Delaware Coastal Airport in Georgetown on September 14 and 15, 2019.**

Public Interviews **The Council conducted public interviews for Board of Adjustment nominees Dr. Kevin Carson (District 1) and Jeff Chorman (District 3).**

M 309 19 Approve Board of Adjustment Appointment/ Carson **A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the appointment of Dr. Kevin Carson to the Sussex County Board of Adjustment, effective immediately, until such time as the term expires in June 2022.**
Motion Adopted: 5 Yeas.
Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

M 310 19 Approve Board of Adjustment Appointment/ Chorman **A Motion was made by Mr. Hudson, seconded by Mr. Wilson, that the Sussex County Council approves the appointment of Jeff Chorman to the Sussex County Board of Adjustment, effective immediately, and until such time as the term expires in June 2022.**
Motion Adopted: 5 Yeas.
Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

Appointment Mr. Lawson presented a recommended reappointment of Ellen Magee to the Board of Adjustment for District 5.

M 311 19 A Motion was made by Mr. Rieley, seconded by Mr. Burton, that the Sussex County Council approves the reappointment of Ellen Magee to the Sussex County Board of Adjustment, effective immediately, until such time as the term expires in June 2022.

Approve Board of Adjustment Reappointment/ Magee Motion Adopted: 5 Yeas.

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

Appointment Mr. Lawson presented a recommended reappointment of Robert Wheatley to the Planning and Zoning Commission for District 1.

M 312 19 A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Council approves the reappointment of Robert Wheatley to the Sussex County Planning and Zoning Commission, effective immediately, until such time as the term expires in June 2022.

Approve Planning & Zoning Commission Reappointment/ Wheatley Motion Adopted: 5 Yeas.

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

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

A. Delaware State Police Activity Report

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

B. Independence Day Holiday and Council Meeting Schedule

County offices will be closed on Thursday, July 4th, for the Independence Day holiday. In addition, Council will not meet on July 2nd or July 9th. The next regularly scheduled Council meeting will be held on Tuesday, July 16th.

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

**Disposition
of County
Real
Property/
Red Mill
Pond
South
Pump
Station
Parcel**

Hans Medlarz, County Engineer, presented a request for the disposition of County Real Property; the subject property was part of the pump station parcel in the Red Mill Pond South Subdivision. The property was conveyed to Sussex County on December 10, 2007, by Red Mill Pond Developers, LLC, as part of the pump station parcel. After the pump station construction, the Developer made changes to the record plan modifying rights-of-way and open space. The change to the plan required that the remainder of the parcel not needed by the County be incorporated in the enlarged open space. The total size of the remainder to be disposed of equals approximately 1,100 square feet. No County funds were expended in acquiring, preserving, improving, restoring, or reclaiming the property. The property cannot be used by any other County department, the State, or local political subdivision; the highest and best use is subdivision open space.

**M 313 19
Approve
Disposition
of County
Real
Property/
Red Mill
Pond
South
Pump
Station
Parcel**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the partial transfer of Parcel 334-5-170.3 to Red Mill Pond Developers, LLC, for inclusion in the subdivision open space.

Motion Adopted: 5 Yeas.

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

**CIB
Site
Refore-
station &
Meadow
Creation
Project
Close-Out**

Hans Medlarz, County Engineer, reported on a reforestation project to restore a landfill buffer area at the Angola Landfill #3. The CIB proposed a Reforestation and Meadow Creation Plan to the previously farmed property protecting waterways and wetlands, reducing nutrient loading as well as sustaining various animal species. In January 2019, Council approved the CIB's Reforestation & Meadow Creation Proposal, at a cost not to exceed \$10,386.07. On April 6, 2019, approximately 2,500 trees were planted; however, the organization of the project proved more complex than anticipated and the CIB exceeded the authorized amount by \$1,557.98. The Engineering Department requests additional funding for the CIB in that amount to close out the project.

**M 314 19
Approve
Additional
Funding
for CIB
Site Refore-
station &
Meadow
Creation
Project**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves additional funding to the Center for the Inland Bays for the "Reforestation & Meadow Creation at Sussex County Landfill #3 Buffer Site"; project close-out in the amount of \$1,557.98.

Motion Adopted: 5 Yeas.

**M 314 19
(continued)**

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

**Landfill
Consulting
Work/
Weston
Solutions**

Hans Medlarz, County Engineer, reported that Weston was approved in 1991 for the County's landfill consulting work. The Engineering Department has continued to utilize Weston Solutions, Inc. under a Basic Operating Agreement for all landfill consulting and monitoring. On March 14, 2017, the Council reaffirmed Weston Solutions, Inc. as the Landfill Professional Services Consultant for a five (5) year period starting July 1, 2017, based on their expertise and past performance with a total FY 18 budget not to exceed \$96,900.00. Prior to every new budget year, Weston provides a scope of work, and cost estimates in a task order format. These cost estimates are included in the Engineering Department's annual budget. The Engineering Department requests approval of the FY 2020, 2021 and 2022 amounts for Weston Solutions, Inc.'s services not to exceed \$96,900.00 per year and authorization for the County Engineer to execute the associated fiscal year task orders based on acceptable consultant performance during the previous fiscal year.

**M 315 19
Approve
Weston
Solutions/
Landfill
Consulting
Work**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Council approve Weston Solutions, Inc. to perform services at all Sussex County landfills in an amount not to exceed \$96,900.00 per year for Fiscal Years 2020, 2021, and 2022, based on satisfactory previous year performance.

Motion Adopted: 5 Yeas.

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

**Contract
Amend-
ment/
SCRWF
Design
Services**

Hans Medlarz, County Engineer, presented Amendment No. 19 for additional design services for the South Coastal Regional Wastewater Facility (SCRWF) Treatment Upgrade No. 3. The proposed amendment, in an amount not to exceed \$108,074.01 covers the following scope of work: Army Corps of Engineers permitting (tax ditch work), fiber optic network and security camera changes, inclusion of precast, post-tensioned concrete construction option, headworks change, and lagoon sludge handling.

**M 316 19
Approve
Amendment
No. 19/
Contract
for SCRWF
Design
Services**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 19 to the Base Engineering Contract with GHD, Inc. be approved in the amount not to exceed \$108,074.01, for additional design services for the SCRWF Treatment Upgrade No. 3.

Motion Adopted: 5 Yeas.

M 316 19
(continued)
Grant
Requests

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

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

M 317 19
Council-
manic
Grant

A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to give \$5,000.00 (\$4,000.00 from Mr. Wilson's Councilmanic Grant Account and \$1,000.00 from Mr. Rieley's Councilmanic Grant Account) to the Georgetown Historical Society for landscaping at the Carriage House.

Motion Adopted: 5 Yeas.

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

M 318 19
Council-
manic
Grant

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$1,500.00 (\$1,000.00 from Mr. Vincent's Councilmanic Grant Account and \$500.00 from Mr. Rieley's Councilmanic Grant Account) to the City of Seaford for Nanticoke Riverfest.

Motion Adopted: 5 Yeas.

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

M 319 19
Council-
manic
Grant

A Motion was made by Mr. Wilson, seconded by Mr. Hudson, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to Seaford Tomorrow for 1st Saturday events.

Motion Adopted: 5 Yeas.

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

M 320 19
Recess

At 11:30 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess until 1:30 p.m.

Motion Adopted: 5 Yeas.

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

M 321 19
Reconvene

At 1:30 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Hudson, to reconvene.

Rules Mr. Moore read the rules of procedure for County Council zoning hearings.

**Public Hearing/
CU 2156)** A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR WELLNESS CLASSES (INCLUDING YOGA, MASSAGE MEDITATION, ACUPUNCTURE AND LECTURES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.33 ACRES, MORE OR LESS” (Conditional Use No. 2156) filed on behalf of Christine and Joseph R. Hudson (Tax I.D. No. 235-16.00-75.00 and 77.00) (911 Address: 14904 Coastal Highway, Milton).

The Planning and Zoning Commission held a Public Hearing on this application on May 9, 2019 at which time action was deferred. On May 23, 2019, the Commission recommended approval, with the following conditions:

- A. All of the Applicant’s uses shall occur within the existing structures or outdoors.
- B. As long as the uses occur within the existing structures, no site plan approvals shall be required from the Planning and Zoning Commission. Any change or expansion of the existing structures shall require site plan approval, and possibly a new public hearing if the changes are substantial.

(See the minutes of the Planning and Zoning Commission dated May 9 and 23, 2019.)

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

The Council found that Christine Hudson was present on behalf of the application. She stated that the church located on the property has always been used as a church; that there are a lot of other rooms in the building which are unused; that she asks that the following also be permitted in the church building: yoga classes, meditation classes, and small seminars; that a large parking lot currently exists; and that some of the classes may take place outside at times.

There were no public comments.

The public hearing and public record were closed.

**M 322 19
Adopt
Ordinance
No. 2661/
CU 2156** A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2661 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR WELLNESS CLASSES (INCLUDING YOGA, MASSAGE MEDITATION, ACUPUNCTURE AND LECTURES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND

**M 322 19
Adopt
Ordinance
No. 2661/
CU 2156
(continued)**

BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.33 ACRES, MORE OR LESS” (Conditional Use No. 2156) filed on behalf of Christine and Joseph R. Hudson, with the following conditions:

- A. All of the Applicant’s uses occur within the existing structures or outdoors.**
- B. As long as the uses occur within the existing structures, no site plan approvals shall be required from the Planning and Zoning Commission. Any change or expansion of the existing structures shall require site plan approval, and possibly a new public hearing if the changes are substantial.**

Motion Adopted: 5 Yeas.

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

**Public
Hearings/
CZ 1876
and
CU 2169)**

The two applications of Robert M. and Debora A. Reed (Change of Zone No. 1876 and Conditional Use No. 2169) were consolidated into one Public Hearing.

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.113 ACRES, MORE OR LESS” (Change of Zone No. 1876) and “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.113 ACRE, MORE OR LESS” (Conditional Use No. 2169) filed on behalf of Robert M. and Debora A. Reed (Tax I.D. No. 335-12.06-1.00) (911 Address: 1525 Savannah Road, Lewes).

The Planning and Zoning Commission held a Public Hearing on these applications on May 9, 2019 at which time action was deferred. On May 23, 2019, the Commission recommended approval of the Change of Zone and the Conditional Use, with the following conditions:

- A. The maximum number of residential units shall be 24.**
- B. The Applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of the development roadway, buffers, stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.**
- C. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT**

**Public
Hearings/
CZ 1876
and
CU 2169)
(continued)**

- requirements.
- D. The project shall be served by Sussex County sewer. The Developer shall comply with all Sussex County Engineering Department requirements including any off-site upgrades necessary to provide service to the project.**
 - E. The project shall be served by central water to provide drinking water and fire protection.**
 - F. There shall be a vegetated or forested buffer of at least 20-feet in width as shown on the Preliminary Plan.**
 - G. As stated by the Applicant, there shall be a 30-foot building setback from the rear of the homes designated as Units 8-14 on the Preliminary Plan.**
 - H. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas.**
 - I. Construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 8:00 a.m. and 6:00 p.m. Monday through Friday, and between 8:00 a.m. and 6:00 p.m. Saturdays between Labor Day and Memorial Day. There shall be no construction activities at the site on Sundays.**
 - J. As stated by the Applicant, there shall be a sidewalk along the western and northern side of the development's roadway and in front of the homes identified as Units 20 through 24 on the Preliminary Site Plan.**
 - K. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.**
 - L. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
 - M. There shall be twelve (12) additional off-street parking spaces provided within the site for visitor parking. These spaces shall be shown on the Final Site Plan.**
 - N. All streetlights shall be downward screened so that they do not shine on neighboring properties or roadways.**
 - O. The street shall meet or exceed County road standards and design requirements.**
 - P. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

It was noted that a letter was received from Art Sullivan, an adjacent property owner. The letter was made a part of the record.

The Council found that the Applicants were present with Jim Fuqua, Attorney, and Ring Lardner of Davis, Bowen & Friedel. Mr. Fuqua and Mr. Lardner discussed the application for a residential community consisting of 24 single family homes situated in a condo style configuration. They stated that the property currently exists with an old house and old chicken houses located on it. They reviewed the surrounding area and adjacent properties, other conditional uses and zonings in the area, the

Public
Hearings/
CZ 1876
and
CU 2169)
(continued)

zoning history of the site, the specifics of the site plan, water and sewer availability, open space, buffers, landscaping, and stormwater management. It was noted that no Traffic Impact Study was required and that the site entrance will be constructed in accordance with DelDOT's requirements.

Mr. Fuqua stated that, prior to the Public Hearing before the Planning and Zoning Commission, the Applicants met with nearby residents. Following the Planning and Zoning Commission's recommendation of approval, the Reeds have agreed to the following additional condition:

Delete "Condition G" as recommended by the Planning and Zoning Commission and substitute "Revised Condition G" in its place, as follows:

" G. As stated by the Applicant:

- A. A voluntary building setback line (VBSL) behind the current location of homes #8 through #14 shall be 35 feet from the perimeter property line. The VBSL shall be as shown on the attached plot. The VBSL shall be applicable to all structures including porches, sunrooms, decks and patios.**
- B. All homes constructed adjacent to the VBSL shall be restricted to a maximum height of 28 feet.**
- C. All homes constructed adjacent to the VBSL shall have no windows on the 2nd floor in the rear elevation overlooking the rear yard that are less than 5 feet above the floor surface of that 2nd floor.**
- D. The Applicant (or his designee) shall assume responsibility for implementation of the landscape buffer plantings on VOFP property in compliance with an anticipated modified VOFP POA Master Landscape Plan along the 772 foot common boundary between VOFP East and 1525 Savannah Road and assumes the expenses for maintenance of the plantings for one year. After one year, the VOFP POA accepts responsibility for all maintenance of plantings. The existing VOFP POA Master Landscape Plan will be modified by the VOFP POA Landscape Architect and approved for implementation through the VOFP POA Grounds Compliance Process. The VOFP POA Landscape Architect and Applicant (or his designee) will adhere to a budget of no more than \$25,000 for the implementation of the modified VOFP POA Master Landscape Plan. The additional screening/tree density offered will enhance property site lines for the homeowners in the VOFP and in the proposed community. Plan implementation shall be made in accordance with VOFP POA approved Compliance Process and within 30 days after the settlement of the sale of the 5th finished home to an end Buyer (not a model home)."**

Mr. Fuqua referenced a June 10, 2019 letter from area property owners outlining the above amendment to Condition G and referencing the withdrawal of their objections to the applications, with the amendment to Condition G.

(continued) **There were no public comments.**

The Public Hearing and public record were closed.

**M 323 19
Adopt
Ordinance
No. 2662/
CZ 1876**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2662 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM-DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.113 ACRES, MORE OR LESS” (Change of Zone No. 1876) filed on behalf of Robert M. and Debora A. Reed.

Motion Adopted: 5 Yeas.

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

**M 324 19
Amend
Condition
G/
CU 2169**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to amend Condition G by deleting the current “Condition G” as recommended by the Planning and Zoning Commission (Conditional Use No. 2169) and substitute “Revised Condition G” in its place, as follows:

“ G. As stated by the Applicant:

- A. A building setback line (BSL) behind the current location of homes #8 through #14 shall be 35 feet from the perimeter property line. The BSL shall be as shown on the attached plot. The BSL shall be applicable to all structures including porches, sunrooms, decks and patios.**
- B. All homes constructed adjacent to the BSL shall be restricted to a maximum height of 28 feet.**
- C. All homes constructed adjacent to the BSL shall have no windows on the 2nd floor in the rear elevation overlooking the rear yard that are less than 5 feet above the floor surface of that 2nd floor.**
- D. The Applicant (or his designee) shall assume responsibility for implementation of the landscape buffer plantings on VOFP property in compliance with an anticipated modified VOFP POA Master Landscape Plan along the 772 foot common boundary between VOFP East and 1525 Savannah Road and assumes the expenses for maintenance of the plantings for one year. After one year, the VOFP POA accepts responsibility for all maintenance of plantings. The existing VOFP POA Master Landscape Plan will be modified by the VOFP POA Landscape Architect and approved for implementation through the VOFP POA Grounds Compliance Process. The VOFP POA Landscape Architect and Applicant (or his designee) will adhere to a budget of no more than \$25,000 for the implementation**

**M 324 19
Amend
Condition
G/
CU 2169
(continued)**

of the modified VOFP POA Master Landscape Plan. The additional screening/tree density offered will enhance property site lines for the homeowners in the VOFP and in the proposed community. Plan implementation shall be made in accordance with VOFP POA approved Compliance Process and within 30 days after the settlement of the sale of the 5th finished home to an end Buyer (not a model home).”

Motion Adopted: 5 Yeas.

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

**M 325 19
Adopt
Ordinance
No. 2663/
CU 2169**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2663 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.113 ACRE, MORE OR LESS” (Conditional Use No. 2169) filed on behalf of Robert M. and Debora A. Reed, with the following conditions, as amended:

- A. The maximum number of residential units shall be 24.**
- B. The Applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of the development roadway, buffers, stormwater management facilities, erosion, and sedimentation control facilities, and other common areas.**
- C. All entrance, intersection, roadway, and multi-modal improvements shall be completed by the Developer in accordance with all DeIDOT requirements.**
- D. The project shall be served by Sussex County sewer. The Developer shall comply with all Sussex County Engineering Department requirements including any off-site upgrades necessary to provide service to the project.**
- E. The project shall be served by central water to provide drinking water and fire protection.**
- F. There shall be a vegetated or forested buffer of at least 20-feet in width as shown on the Preliminary Plan.**
- G. As stated by the Applicant:**
 - 1. A building setback line (BSL) behind the current location of homes #8 through #14 shall be 35 feet from the perimeter property line. The BSL shall be as shown on the attached plot. The BSL shall be applicable to all structures including porches, sunrooms, decks and patios. (Attachment to final ordinance.)**
 - 2. All homes constructed adjacent to the BSL shall be restricted to a maximum height of 28 feet.**
 - 3. All homes constructed adjacent to the BSL shall have no windows on the 2nd floor in the rear elevation overlooking the**

**M 325 19
Adopt
Ordinance
No. 2663/
CU 2169
(continued)**

- rear yard that are less than 5 feet above the floor surface of that 2nd floor.
4. The Applicant (or his designee) shall assume responsibility for implementation of the landscape buffer plantings on VOFP property in compliance with an anticipated modified VOFP POA Master Landscape Plan along the 772 foot common boundary between VOFP East and 1525 Savannah Road and assumes the expenses for maintenance of the plantings for one year. After one year, the VOFP POA accepts responsibility for all maintenance of plantings. The existing VOFP POA Master Landscape Plan will be modified by the VOFP POA Landscape Architect and approved for implementation through the VOFP POA Grounds Compliance Process. The VOFP POA Landscape Architect and Applicant (or his designee) will adhere to a budget of no more than \$25,000 for the implementation of the modified VOFP POA Master Landscape Plan. The additional screening/tree density offered will enhance property site lines for the homeowners in the OFP and in the proposed community. Plan implementation shall be made in accordance with VOFP POA approved Compliance Process and within 30 days after the settlement of the sale of the 5th finished home to an end Buyer (not a model home).”
- H. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including the buffer areas.
- I. Construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 8:00 a.m. and 6:00 p.m. Monday through Friday, and between 8:00 a.m. and 6:00 p.m. Saturdays between Labor Day and Memorial Day. There shall be no construction activities at the site on Sundays.
- J. As stated by the Applicant, there shall be a sidewalk along the western and northern side of the development’s roadway and in front of the homes identified as Units 20 through 24 on the Preliminary Site Plan.
- K. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
- L. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- H. There shall be twelve (12) additional off-street parking spaces provided within the site for visitor parking. These spaces shall be shown on the Final Site Plan.
- I. All streetlights shall be downward screened so that they do not shine on neighboring properties or roadways.
- J. The street shall meet or exceed County road standards and design requirements.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

