

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 30, 2020

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 30, 2020, at 10:00 a.m., in the Council Chambers, 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 235 20
Approve
Agenda**

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

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 23, 2020 were approved by consent.

**Public
Comment**

A public comment period was held and the following spoke: Dan Kramer (by phone).

**Library
Advisory
Board**

Mr. Lawson reported on Library Advisory Board term expirations.

**M 236 20
Approve
Library
Advisory
Board
Appoint-
ment**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the reappointment of Dr. Stephen Schwartz to the Sussex County Library Advisory Board for a term of three years, effective immediately, until such time as the term expires in June 2023.

Motion Adopted: 5 Yeas.

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

**Library
Advisory
Board**

Mr. Lawson explained that one additional year needs to be added to the term of John Monohan to correct a mistake made at the time of his appointment in June 2018.

**M 237 20
Approve
Extension
of Library
Advisory
Board
Appoint-
ment**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, that the Sussex County Council approves the appointment of John Monohan to the Sussex County Library Advisory Board, effective immediately, for one additional year, until such time that the term expires in June 2021.

Motion Adopted: 5 Yeas.

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

**Adminis-
trator's
Report**

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

A. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Wellesley – Phase 1 (Construction Record) and Sunset Glen (formerly Stafford Street Capital, LLC, Lands of MDI Investment Group, LLC) – received Substantial Completion effective June 16th and June 22nd, respectively.

B. Holiday and Council Meeting Schedule

County offices will be closed on Friday, July 3rd, for the Independence Day holiday. In addition, Council will not meet on July 7th. The next regularly scheduled Council meeting will be held on Tuesday, July 14th.

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

**Update on
CARES
Act
Funding
for CDBG**

Brad Whaley, Director of Community Development and Housing, and Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer, gave a presentation on new funding being made available to Sussex County through the CARES Act to Community Development and Housing. In response to COVID-19, Congress passed the CARES Act in March 2020; a significant amount of this funding is funneled through HUDs' programs. Over \$5 billion in supplemental funding was allocated to the Community Development Block Grant (CDBG) nationwide. The Delaware State Housing Authority (DSHA) received \$1,471,924 in the first round of the CARES Act to be used in Kent and Sussex Counties, with the priority of pandemic response and prevention through eligible public services. Some of these services include hotel/motel vouchers for the homeless, homeless prevention services such as rent and utility assistance, legal services, i.e. evictions, senior elderly food programs, medical and health services, etc. Mr. Whaley stated that out of the

**Update
on CARES
Act
Funding
(continued)**

original \$1.4 million, \$952,767 of that allocation will be designated for Sussex County. The Delaware State Housing Authority is guessing that about \$627,000 of that will be used for hotel/motel vouchers to house COVID victims and those that have been misplaced due to the COVID pandemic. Seventy-five thousand dollars (\$75,000) of that amount will be used for administration from the County's Department to administer the funding, leaving a balance of \$250,000 that is available via competition for public service agencies and non-profits (rental assistance, legal fees, and food). A public hearing will be required. With Council's approval, the Department is hoping to begin this process in July. Mr. Whaley noted that there will be a second round; however, the County will have to apply on a competitive basis for this round; the first round will come directly to the County.

**Compre-
hensive
Land Use
Plan
Update**

Jamie Whitehouse, Planning and Zoning Director, presented the annual update to the Office of State Planning and Coordination on the Comprehensive Plan. The Comprehensive Plan was certified by the Governor on March 19, 2019; so this is the first annual report on year one progress. He noted that it has been a productive year and a number of ordinances have come forward to further the Comprehensive Plan, particularly in relation to land use. The Environmentally Sensitive Developing District Overlay Zone has been renamed the Coastal Area and an ordinance enhanced the cluster subdivision ordinance. If adopted, the Report will be forwarded to the Office of State Planning and placed on the County's website. (The report was included in the Council packets for this meeting.)

**M 238 20
Approve
Annual
Compre-
hensive
Plan
Report**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Annual Comprehensive Plan Report covering the period July 1, 2019 through June 30, 2020 is approved, as presented, for submission to the Office of State Planning and Coordination.

Motion Adopted: 5 Yeas.

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

**Construct-
ion of
Parallel
Taxiway D/
Phase 2
Project/
Change
Order**

Hans Medlarz, County Engineer, presented Change Order No. 2 for the Construction of Parallel Taxiway D, Phase 2, Project 18-03. The Change Order, in the credit amount of \$31,716.44, which covers the installation of additional ground rods required for the new taxiway circuits to meet the FAA specification requirements for resistance and finalizes all quantities. Construction is complete except for some punch list items. Once they are closed and the project inspected by the FAA, the Department will seek Council's concurrence for Final Acceptance.

**M 239 20
Approve
Change
Order/
Construct
Parallel
Taxiway D
Phase 2
Project**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2 for Contract 18-03, Construction of Parallel Taxiway D, Phase 2, be approved, decreasing the contract amount by \$31,716.44 for a new contract total of \$5,529,607.86.

Motion Adopted: 5 Yeas.

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

**Town of
Georgetown
Water
Inter-
connection
Agreement
and Appoint
Engineer
for Sewer
and Water
work**

Hans Medlarz, County Engineer, presented the Water Interconnection Agreement and the associated Engineering Amendments for Professional Services. This Agreement that the County has with the Town of Georgetown is in regard to the Delaware Coastal Business Park and sewer service at the Park. The Delaware Coastal Business Park, as well as the entities located at the Coastal Airport along Rudder Lane, receive wastewater treatment services from the Town of Georgetown under the April 23, 2008 Agreement, last amended by Addendum on August 14, 2018. Given the limited availability of municipal sewer capacity, the Agreement allows for the surrender of capacity under Article VIII by redirecting it to alternate wastewater service providers. This option allows the Town to regain capacity beyond the County flows without initial capital contribution, while allowing the County to recuperate all capital funds over the life of the investment. The Finance and Engineering Departments recommended approval of the capacity surrender as outlined in the Agreement and on October 8, 2019, the Council concurred. On June 24, 2020, the Georgetown Town Council voted to accept the County's surrender notice as per Article VIII of the 2008 Agreement, as amended, and in return exercised the Town's option to request inclusion of 200% of the surrendered capacity in the design and construction of the interconnection. On May 14, 2019, the County Council awarded a five (5) year base contract for miscellaneous engineering services to Davis, Bowen & Friedel, Inc. The proposed scope of Amendment No. 3 covers limited topographic survey and preparation of the construction documents for the water interconnection as well as the sewer extension to the handshake point with Artesian Wastewater Management, Inc. on Park Avenue. The Engineering Department now requests approval of Amendment No. 2, on an hourly basis with rates approved under the base contract in the not to exceed amount of \$50,000.00.

**M 240 20
Approve
Water
Inter-
connection
Agreement**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council approves the final water interconnection agreement with the Town of Georgetown, as presented.

Motion Adopted: 5 Yeas.

**M 240 20
(continued)** **Vote by Roll Call:** **Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

M 241 20 **A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon
Appoint the recommendation of the Sussex County Engineering Department, that
Engineer Amendment No. 3 to the 2019 Miscellaneous Engineering Base Agreement
for with Davis, Bowen & Friedel, be approved in the amount not to exceed
Sewer/ \$50,000.00 for Engineering Services associated with the Water
Water Interconnection Agreement with the Town of Georgetown and the Sewer
Work/ Extension Agreement with Artesian Wastewater Management to extend
Water sewer and water services at the Delaware Coastal Airport and Business
and Sewer Park.
Agreements**

Motion Adopted: 5 Yeas.

at the **Vote by Roll Call:** **Mr. Hudson, Yea; Mr. Rieley, Yea;
Airport Mr. Wilson, Yea; Mr. Burton, Yea;
and Mr. Vincent, Yea
Industrial
Parks**

2019 Mis- **Hans Medlarz, County Engineer, presented Amendment 2 to the 2019
cellaneous Miscellaneous Engineering Base Contract (Plantation Road Expansion).
Engineering The proposed scope of Amendment 2 covers limited topographic survey of
Base the southwest side of Plantations Road and the existing sewer utility road
Contract crossing in connection with right-of-way and existing verifications to
Amendment develop an existing conditions plan. In addition to that plan, Davis Bowen
No. 2/ & Friedel will prepare a utility plan and profiles as well as a DelDOT
Plantation maintenance of traffic plan. The Engineering Department requests
Road approval of the Amendment 2 to complete the work on an hourly basis with
rates approved under the base contract in the not to exceed amount of
\$9,500.00.**

M 242 20 **A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon
Approve the recommendation of the Sussex County Engineering Department, that
Contract Amendment No. 2 to the 2019 Miscellaneous Engineering Base Agreement
Amendment with Davis, Bowen & Friedel, be approved in the amount not to exceed
2019 Mis- \$9,500.00, for design of a low-pressure force main on Plantation Road.
cellaneous**

Motion Adopted: 5 Yeas.

Engineering **Vote by Roll Call:** **Mr. Hudson, Yea; Mr. Rieley, Yea;
Base Mr. Wilson, Yea; Mr. Burton, Yea;
Contract/ Mr. Vincent, Yea
Plantation
Rd.**

James **Hans Medlarz, County Engineer, presented a recommendation to authorize
Farm Master Plan Implementation, Phase 2, for the James Farm Ecological
Ecological Preserve (Professional Architectural/Engineering Services, Project C20-38).
Preserve In April 2020, the Council authorized the Engineering Department to
Project negotiate agreements with Kimley Horn & Associates for Architectural/**

James Farm Ecological Preserve Project/ Master Plan Implementation, Phase 2 (continued)

Engineering Services at the James Farm over a 5-year period, effective May 1, 2020 through April 30, 2025. Kimley Horn & Associates have reviewed the existing ORPT Grant Agreement 19-190 which included the approved FY20 County funds and developed a project agreement to perform the Phase 2 implementation design scope. An agreement for professional services with associated scope and fee is provided as Project C20-38, James Farm Master Plan Implementation: Phase 2. As outlined by the ORPT grant, work under the project shall include a detailed refinement of the existing Master Plan limited to the general vicinity of the maintenance and education area. Kimley Horn & Associates is to provide architectural programming of future buildings; the final design, permitting, bidding and construction of a stand-alone restroom facility; the development of design and construction documentation for campus signage; and other miscellaneous related items. The Engineering Department has reviewed the agreement, scope and fee for Project C20-38, James Farm Master Plan Implementation: Phase 2, and received concurrence of outlined goals from the Center for the Inland Bays. The Engineering Department recommends Council's authorization of the agreement for Project C20-38, James Farm Master Plan Implementation: Phase 2 with a not-to-exceed fee of \$71,435.00.00 for professional services by Kimley Horn & Associates, Inc.

M 243 20 Approve James Farm Agreement

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Architectural / Engineering Services Agreement with Kimley Horn & Associates, Inc. be approved in the amount not to exceed \$71,435.00 for the Planning and Design Phases of Sussex County Project C20-38, James Farm Master Plan Implementation: Phase 2, in part.

M 244 20 Motion to Defer/ Motion Died

A Motion was made by Mr. Wilson to defer action.

The Motion died for the lack of a Second.

Vote on Motion No. M 243 20

Vote on M 243 20

Motion Adopted: 4 Yeas, 1 Nay.

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

H&M Bay/ Airport Lease Amendment

Hans Medlarz, County Engineer, presented a proposed amendment to the Lease Agreement with H & M Bay, Inc. (H&M) at the Delaware Coastal Airport, for a reduction in the area leased. The County currently leases the County-owned hangar on Lot C at Delaware Coastal Airport to H&M Bay, Inc. The current lease with H&M Bay is a hangar lease, with rent based on the value of the hangar and not the land. In November 2019, Council approved the release of a Request for Proposals (RFP) to develop the adjacent two lots, A and B. The RFP was released in February 2020 and no proposals were received. The Engineering Department is revising the RFP

**H&M Bay/
Airport
Lease
Amendment
(continued)** **to allow for more flexibility in the development of Lots A and B, and will release it in the coming months. The boundary of Lot C extends approximately 20 feet beyond the vehicle driveway which provides access to the leased hangar. This strip of grass provides no utility to H&M, but decreases the land available for hangar development on Lots A and B. The proposed Amendment 1 of H&M's lease will remove this grass strip to make it available as part of Lots A and B development. No other changes to Lease are proposed or needed.**

**M 245 20
Approve
Airport
Lease
Amendment
for H&M
Bay,
Inc.** **A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, to approve the First Amendment to the Airport Hangar Lease with H & M Bay, Inc.**

Motion Adopted: 5 Yeas.

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

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

**M 246 20
Council-
manic
Grant** **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$10,000.00 from Mr. Rieley's Councilmanic Grant Account to the Town of Dagsboro for water meter register replacement.**

Motion Adopted: 5 Yeas.

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

**M 247 20
Council-
manic
Grant** **A Motion was made by Mr. Hudson, seconded by Mr. Burton, to give \$2,000.00 (\$1,000.00 each from Mr. Hudson's and Mr. Rieley's Councilmanic Grant Accounts) to the Delaware Seashore Preservation Foundation for the fire control tower restoration project.**

Motion Adopted: 5 Yeas.

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

**M 248 20
Council-
manic
Grant** **A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give \$3,000.00 from Mr. Vincent's Councilmanic Grant Account to the Town of Bridgeville for park/playground expenses.**

Motion Adopted: 5 Yeas.

**M 248 20
(continued)**

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

**M 249 20
Council-
manic
Grant**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$4,000.00 (\$3,000.00 from Mr. Vincent's Councilmanic Grant Account and \$1,000.00 from Mr. Rieley's Councilmanic Grant Account) to the Town of Laurel for bandstand renovations.

Motion Adopted: 5 Yeas.

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

**M 250 20
Council-
manic
Grant**

A Motion was made by Mr. Hudson, seconded by Mr. Burton, to give \$5,000.00 (\$2,391.00 from Mr. Hudson's Councilmanic Grant Account and \$2,609.00 from Mr. Burton's Councilmanic Grant Account) to the Lewes-Rehoboth Canal Improvement Association for Grove Park dock/canal access.

Motion Adopted: 5 Yeas.

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

**M 251 20
Council-
manic
Grant**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, to give \$11,698.00 (\$10,000.00 from Mr. Burton's Councilmanic Grant Account, \$1,000.00 from Mr. Vincent's Councilmanic Grant Account, and \$698.00 from Mr. Rieley's Councilmanic Grant Account) to Southern Delaware Therapeutic and Recreational Horseback Riding for construction of a multi-purpose room at the Therapeutic Riding Center.

Motion Adopted: 5 Yeas.

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

**M 252 20
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$4,010.00 from Mr. Vincent's Councilmanic Grant Account to the Nanticoke River Arts Council for general operating support.

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinances**

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Change of Zone No. 1921) filed on behalf of Stephen M. Sprogell (Tax I.D. No. 134-8.00-17.01) (911 Address: 30261 Sprogell Lane, Dagsboro).

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING AND LAWN MAINTENANCE BUSINESS ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.678 ACRES, MORE OR LESS” (Conditional Use No. 2229) filed on behalf of D.R.’s Lawn Maintenance, LLC (Tax I.D. No. 135-16.00-43.09) (911 Address 25479 Hollis Rd, Harbeson).

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 (AGRICULTURAL RESIDENTIAL DISTRICT) FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” (Conditional Use No. 2233) filed on behalf of Brothers Landscaping, LLC (Tax I.D. No. 231-13.00-190.00) (911 Address: 24516 German Road, Seaford).

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FIBERGLASS SWIMMING POOL AND SPA DISPLAY AND LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.70 ACRES, MORE OR LESS” (Conditional Use No. 2234) filed on behalf of James Jones (Tax I.D. No. 234-28.00-67.00) (911 Address: 28984 Cordrey Rd, Millsboro).

The Proposed Ordinances will be advertised for Public Hearing.

**M 253 20
Go Into
Executive
Session**

At 11:00 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Hudson, to recess and go into Executive Session to discuss matters relating to personnel.

Motion Adopted: 5 Yeas.

**M 253 20
(continued)** **Vote by Roll Call:** **Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Executive Session **At 11:02 a.m., an Executive Session of the Sussex County Council was held in the Council Chambers for the purpose of discussing matters relating to personnel. The Executive Session concluded at 11:22 a.m.**

**M 254 20
Reconvene
Regular
Session** **At 11:22 a.m., a Motion was made by Mr. Burton, seconded by Mr. Rieley, to come out of Executive Session and reconvene the Regular Session.**

Motion Adopted: **5 Yeas.**

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

E/S Action **There was no action on Executive Session matters.**

**M 255 20
Recess** **At 11:22 a.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson, 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 256 20
Reconvene
Regular
Session** **At 1:31 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Burton, to reconvene the Regular Session.**

Motion Adopted: **5 Yeas.**

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

Rules **Mr. Moore read the rules of procedure for zoning hearings, including how public comment would be handled by teleconference.**

**Public Hearing/
CZ 1914** **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 B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.06 ACRES, MORE OR LESS” (Change of Zone No. 1914) filed on behalf of Ronald E. and M. Candice Gray (Tax I.D. No. 134-15.00-20.06) (911 Address: Not Available).**

**Public
Hearing/
CZ 1914
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on May 28, 2020 at which time action was deferred. At the meeting of June 11, 2020, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated May 28 and June 11, 2020.)

Jamie Whitehouse, Planning and Zoning Director, presented the application. Mr. Whitehouse noted that 1 letter of support and 37 letters of opposition were submitted into the record. Mr. Whitehouse also noted the receipt of a petition in opposition to the rezoning signed by 41 people; the petition was received after the Planning and Zoning Commission's public hearing.

The Council found that John Sergovic, Attorney, was present with Ron Gray, Applicant, and Tim Metzner, a landscape architect with Davis, Bowen & Friedel. Mr. Sergovic and Mr. Metzner stated that the proposed use is for 94,800 square feet of self-storage consisting of 703 units in 40 buildings and 13,000 square feet of office space after central sewer becomes available; that the lands are in the Coastal Area and the Comprehensive Plan states that uses such as offices and retail stores are appropriate; that DelDOT did not require a Traffic Impact Study and there would be no significant impact on traffic in the area; that they have determined a demand for storage facilities; that the Applicant is already in the business of operating storage facilities; and that an entrance off of Route 17 is proposed. Mr. Sergovic reviewed other commercial uses and residential developments in the area and stated that the proposed use of the property is compatible and consistent with neighboring uses; that the rezoning will have no adverse or detrimental impact on neighboring areas or uses; and that the Applicant, Ron Gray, has surveyed owners along Roxanna Road and that one neighbor, Carolyn Nutt, expressed concerns about the project.

Mr. Gray stated that he has another storage facility on Route 54; that this property was leased out as agricultural property with minimal income; that he wishes to rezone the property for a self-storage facility; that the property is located near Millville by the Sea housing development and near the new Beebe Hospital facility; that the area continues to grow with retirement homes with limited storage; that an apartment complex has been approved near the Beebe Hospital location; that he is requesting rezoning so that even if it is several years before the property can be developed, the zoning will not expire as a conditional use permit would; that there is a need for storage units in the area; and that he reached out to the neighbors and there was one property owner who objected because of the growth in the area. Mr. Gray noted that the opposition stated that this project will contaminate wells in the area and that he is not sure how that would happen; that Tidewater and Artesian are close by and they hope to obtain water service from one of them; and that if they put in a well, it would not contaminate other wells. Mr. Gray stated that he understands that a group in opposition to the project is being represented by an attorney at this Public Hearing but

**Public
Hearing/
CZ 1914
(continued)**

he has not yet seen their submissions/comments.

In response to questions raised by the Council, Mr. Gray stated that there will be some outside storage until the buildings are completed (10-15 years build-out); that there may be some RV and boat storage; however, once the project is built out, there would be no room for that.

There were no public comments in support of the application.

It was noted again that one letter of no objection has been received and made a part of the record.

The Council found that seven (7) people spoke in opposition to the application including: Sandra Curcy (by phone), Richard Curcy (by phone), Lia Strucich (by phone), Katie Detar (by phone), Kyle Detar (by phone), Tim Willard, Attorney (by phone) representing William and Anne Parler, and Carolyn Nutt (in person), daughter of Mr. and Mrs. Parler. They expressed concerns about drainage problems resulting in flooding, increased traffic causing a back-up of traffic, setting a rezoning precedent in the area, environmental concerns including light pollution, well water, increased criminal activity in the area, damages to properties, proximity to other buildings, tree removal, the need to maintain prime farmland, and that the proposed project is surrounded by residential uses. Mr. Willard and Carolyn Nutt stated that the Council must disregard the Concept Plan and determine whether the rezoning in this area is appropriate; that there are many uses permitted in B-2 zoning; that the project will be detrimental to the adjacent property owners' overall health, safety and welfare; that stormwater run-off is a concern and the proposed project would increase the proportion of impervious surfaces in the landscape as building density increases over time; that increased impervious surface is a concern; that the area is comprised of prime agricultural lands and environmentally sensitive wetlands and wildlife habitats, which should be preserved; that there is concern about what will be stored at the facility; that what checks will be given to ensure that the neighboring properties will not be subject to danger and criminal activities; that the proposed rezoning is inconsistent with the Strategies for State Policies and Spending; that commercial development is inconsistent with the adjacent agricultural preserved land; that this rezoning would be spot-zoning; that the proposed commercial development facility in a Coastal Area AR-1 Zone is too dense; that the area is rural; that the noise generated will not be compatible with the residential area; that traffic will greatly increase on Route 17 (50 additional trips per hour); that the lights at the facility will disturb adjacent properties; that the property's soils have severe limitations considered unsuitable for development; that there will be hazardous access to the Parler's lane which has not been addressed; that the Parler's are the most impacted by this proposed commercial development and the project will be detrimental to their property, well, septic, garage, house and shared property line; and that the application is not compatible with the Comprehensive Land Use Plan. Mr. Willard referenced the letters of opposition in the Exhibit Booklet he

**Public
Hearing/
CZ 1914
(continued)**

submitted on behalf of the Parler's. It was noted that Ms. Nutt submitted photographs of storage unit facilities as well as the petition of opposition indicating 41 families/individuals opposed to the zoning change.

There were no additional public comments.

The public record and Public Hearing were closed.

**M 257 20
Defer
Action on
CZ 1914**

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to defer action on Change of Zone No. 1914 filed on behalf of Ronald E. and M. Candice Gray.

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/
CZ 1915**

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 B-3 BUSINESS RESEARCH DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 17.15 ACRES, MORE OR LESS" (Change of Zone No. 1915) filed on behalf of Fisher's Popcorn Fenwick, LLC (Tax I.D. No. 533-11.00-78.04) (911 Address: Not Available).

The Planning and Zoning Commission held a Public Hearing on this application on May 28, 2020 at which time action was deferred. On June 11, 2020, the Commission recommended approval of the application.

(See the minutes of the Planning and Zoning Commission dated May 28 and June 11, 2020.)

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

Mr. Whitehouse noted that two letters of support have been received and made a part of the record.

The Council found that David Hutt was present on behalf of the Applicant and owner of the property. Also present were Bill and Russell Hall, two of the principals of Fishers Popcorn Fenwick, LLC. Mr. Hutt stated that the rezoning is for 3.25 acres of the 17.15 acre parcel; that the split zoning request matches the zoning on the neighboring properties; that the reason for the rezoning application is to allow Fisher's Popcorn to have a place to manufacture, store and distribute their products; that this is a permitted use in the B-3 District; that the property is currently undeveloped; that public sewer is available and water would be provided by an onsite well;

**Public
Hearing/
CZ 1915
(continued)**

that a Traffic Impact Study was not required since the amount of traffic would be negligible; that a letter of support has been received from the neighboring property owned by the Barringer family; and that the property is located in an area where there is a mix of commercial zoning, small businesses and residential uses.

There were no public comments.

The public record and Public Hearing were closed.

**M 258 20
Adopt
Ordinance
No. 2719/
CZ 1915**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Ordinance No. 2719 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-3 BUSINESS RESEARCH DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 17.15 ACRES, MORE OR LESS" (Change of Zone No. 1915) filed on behalf of Fisher's Popcorn Fenwick, LLC.

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/
CU 2213**

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 A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 220.38 ACRES, MORE OR LESS" (Conditional Use No. 2213) filed on behalf of Whitetail Lane, LLC (Tax I.D. No. 135-20.00-137.00) (911 Address: 17471 Whitetail Lane, Georgetown).

The Planning and Zoning Commission held a Public Hearing on this application on May 28, 2020 at which time action was deferred. On June 11, 2020, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated May 28 and June 11, 2020.)

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

The Council found that David Hutt, Attorney, was present with Tim and Beth Conaway, Principals of Whitetail Lane, LLC. Mr. Hutt stated that Whitetail Lane, LLC is the owner of the property as well as the Applicant; that the application is for a borrow pit; that the site is located in a Developing Area; that the site is located in an Investment Level 3 Area

**Public
Hearing/
CU 2213
(continued)**

according to the Strategies for State Policies and Spending Map; that the property has frontage on Cedar Lane Road and Wood Branch Road; that the entrance for the proposed borrow pit would be at the southern end of Cedar Lane Road; that the property is wooded; that the land is subject to a forest preservation easement; that the easement has been assigned to the Applicant; that there is an exclusion from the easement area and that area is not subject to the forest land preservation easement; that the permitted uses are limited in preservation areas; that the Conaway’s plan is to move their permanent residence to this site and reclamation will include an area for a wildlife pond for ducks and fish within the natural forested area; that the proposed area for the borrow pit is less than 10% of the entire parcel; that the borrow pit will be approximately 15 acres; that a Traffic Impact Study was not required; that no wetlands will be disturbed as part of the excavation of the borrow pit; that they would like to propose the hours of operation to be Monday through Saturday, 8:00 a.m. to 4:00 p.m. with no borrow pit activities on Sunday; that the Applicant proposed a start time of 6:00 a.m. but the Planning and Zoning Commission changed that to 8:00 a.m.; that the nearest residents are more than 200 feet away; that a borrow pit application is a special conditional use and in addition to the Council’s consideration of the typical conditional use factors, a borrow pit approval has a special list of conditions/requirements set forth in the Zoning Code; and that the project will comply with those special conditions and requirements.

Public comments were heard.

David Johnson questioned if there would be only one access to the borrow pit which is proposed to be on Whitetail Lane and if that is true, he has a problem with that due to where his residence is located.

There were no additional public comments.

The public record and Public Hearing were closed.

**M 259 20
Amend
Condition/
CU 2213**

A Motion was made by Mr. Hudson, seconded by Mr. Burton, to amend Condition F recommended by the Planning and Zoning Commission to read as follows: “The hours of operation shall be between the hours of 7:00 a.m. to 4:00 p.m. Monday through Saturday. No Sunday hours shall be permitted.”

Motion Adopted: 5 Yeas.

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

**M 260 20
Adopt
Ordinance
No. 2720/**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, to Adopt Ordinance No. 2720 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL

M 260 20
Adopt
Ordinance
No. 2720/
CU 2213
(continued)

RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 220.38 ACRES, MORE OR LESS” (Conditional Use No. 2213) filed on behalf of Whitetail Lane, LLC, with the following conditions, as amended:

- A. No materials shall be brought from off the site for processing, mixing or similar purposes.**
- B. The borrow pit area shall not exceed 20 acres.**
- C. Water or a water truck shall be available to control dust from road traffic when conditions require.**
- D. The entrance to the borrow pit shall be paved and the roadway from Cedar Road can be millings or stone. The entrance shall be fenced or gated to prevent access.**
- E. Any roadway and entrance improvements required by DelDOT shall be completed by the Applicant. All entrances shall be secured when the borrow pit is not in operation.**
- F. The hours of operation shall be between the hours of 7:00 a.m. to 4:00 p.m. Monday through Saturday. No Sunday hours shall be permitted.**
- G. No materials shall be stored on any access roads or within any buffer area.**
- H. No fuel shall be stored on-site.**
- I. No stumps, branches, debris or similar items shall be buried or placed in the site of the borrow pit.**
- J. The proposed pit will have a 3:1 side slope down to a 10-foot level bench that will be approximately near or 1 foot below the static water surface. Below the water level, the borrow pit shall have a 2:1 slope. The depth of the proposed borrow pit will not exceed 35 feet.**
- K. A final site plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations. Reclamation plans shall indicate finished grading, seeding and planting schedules designed to create a pleasing appearance and protect existing and future developments.**
- L. The Applicant shall comply with all State and County erosion and sediment control regulations.**
- M. The Applicant shall comply with all of the requirements set forth in Section 115-172B of the Sussex County Zoning Ordinance.**
- N. The borrow pit shall be surrounded by a buffer strip a minimum distance of 100 feet from any street lines, 200 feet from any dwelling of other ownership, and 50 feet from all other property lines of other ownership. The buffer area shall be a vegetated buffer of existing vegetation or native species vegetation.**
- O. No wetlands on the site shall be disturbed.**
- P. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

**M 260 20
(continued)**

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

**Public
Hearing/
CU 2215**

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 PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.56 ACRES, MORE OR LESS” (Conditional Use No. 2215) filed on behalf of BZ Land, LLC (Tax I.D. No. 533-19.00-26.00) (911 Address: 37116 and 37124 Lighthouse Road, Selbyville).

The Planning and Zoning Commission held a Public Hearing on this application on May 28, 2020 at which time action was deferred. On June 11, 2020, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated May 28 and June 11, 2020.)

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

James Fuqua, Attorney was present on behalf of the application with Charlie Zonko, the property owner. Mr. Fuqua stated that the property is currently improved with a residence with 3,897 square feet of floor area; that there is a pool and outbuildings to the rear of the property; that the home is located at the rear of the property and it has an entrance in the front from Route 54; that Mr. Zonko is the owner of Zonko Builders; that there is an office building located at the front west side of the property containing 2,048 of floor area, which is the construction office for the business; that the office has a separate entrance from Route 54 located near the office building; that no Traffic Impact Study was required; that a lighted sign is requested but would be put on a timer to shut off at night; that, at DelDOT’s request, the existing residential entrance on the east side of the property from Route 54 will be removed and closed leaving only one entrance which is the existing office entrance from Route 54. Mr. Fuqua presented a history of the site and the buildings located on it; discussed the proposed future use for professional offices; reviewed the proposed site plan including building plans and the parking plan (50 parking spaces including 4 handicapped spaces and including 9 parking spaces that encroach over the property line onto the neighboring property); that those parking spaces have been used for years and there will be an easement agreement with the neighboring property for those parking spaces; that the total floor area with the two additions would total 9,387 square feet; vegetated buffers; and stormwater management facilities. Mr. Fuqua noted that professional offices would have a lower impact on the area than retail uses; that the hours of operation would be 8:00 a.m. to 7:00 p.m. Monday through Friday

**Public
Hearing
(continued)**

and 8:00 a.m. to 4:00 p.m. on Saturday, with no public Sunday hours; that the area is experiencing significant development and a growing population of both summer and full time residents; and that the proposed use will provide needed professional services to area residents.

There were no public comments.

The public record and Public Hearing were closed.

**M 261 20
Adopt
Ordinance
No. 2721/
CU 2215**

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to Adopt Ordinance No. 2721 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.56 ACRES, MORE OR LESS” (Conditional Use No. 2215) filed on behalf of BZ Land, LLC, with the following conditions:

- A. The use shall be limited to professional offices.**
- B. As stated by the Applicant, the existing structures and the proposed additions shall maintain a residential appearance.**
- C. The hours of operation open to the public shall be between 8:00 a.m. and 7:00 p.m. Monday through Friday, and 8:00 a.m. until 4:00 p.m. on Saturdays. This shall not prohibit professionals utilizing the offices from working at other hours or on weekends.**
- D. Any dumpsters shall be located to the rear of the property and screened from view of neighboring properties and roadways.**
- E. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.**
- F. The Applicant shall comply with all DelDOT requirements concerning entrance, traffic and roadway improvements.**
- G. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- H. One lighted sign shall be permitted on the property. The sign shall be no larger than 32 square feet per side.**
- I. A landscaping plan shall be submitted as part of the Final Site Plan review. It shall include a vegetated buffer along the eastern boundary of the property.**
- J. 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: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU 2221**

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 A SMALL AUTO REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.75 ACRES, MORE OR LESS” (Conditional Use No. 2221) filed on behalf of Dominic Lombardi (Tax I.D. No. 133-16.00-73.04) (911 Address: 24169 Godwin School Rd., Millsboro).

The Planning and Zoning Commission held a Public Hearing on this application on May 28, 2020 at which time action was deferred. On June 11, 2020, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated May 28 and June 11, 2020.)

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

The Council found that Dominic Lombardi, the Applicant, was present on behalf of his application. He stated that he has applied to operate an auto repair business (small diesel and small car repair work) out of a pole building located at his residence; that he will be the only employee; that no Traffic Impact Study was required; that hours of operation are proposed to be 8:00 a.m. to 8:00 p.m. Monday through Friday; and that his immediate neighbors are in support of the application.

There were no public comments.

The public record and Public Hearing were closed.

**M 262 20
Adopt
Ordinance
No. 2722/
CZ 2221**

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to Adopt Ordinance No. 2722 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL AUTO REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.75 ACRES, MORE OR LESS” (Conditional Use No. 2221) filed on behalf of Dominic Lombardi, with the following conditions:

- A. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- B. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- C. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- D. All repairs shall be performed indoors. No automobile parts shall be stored outside.**

**M 262 20
Adopt
Ordinance
No. 2722/
CZ 2221
(continued)**

- E. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.**
- F. There shall not be any parking in the front yard setback.**
- G. The parking areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles shall only be parked within these designated areas.**
- H. No cars shall be sold on the property.**
- I. All oils and other fluids shall be properly stored indoors in appropriate containers. The Applicant shall also comply with all state and federal requirements for the disposal of these fluids.**
- J. The site shall be subject to all DeDOT entrance and roadway requirements.**
- K. The hours of operation shall be 8:00 a.m. through 8:00 p.m., Monday through Friday, and 9:00 a.m. until 5:00 p.m. on Saturdays. There shall not be any Sunday hours.**
- L. Any violation of these conditions may be grounds for termination of this Conditional Use.**
- M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**M 263 20
Adjourn**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, to adjourn at 4:30 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**

Respectfully submitted,

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

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