

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 23, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 23, 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
David N. Rutt	Assistant County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 369 19
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to amend the Agenda by deleting the grant request for Millsboro Little League, 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 July 16, 2019 were approved by consent.

**Public
Comments**

A public comment period was held and the following spoke: Paul Reiger, DJ Hughes, and Dan Kramer.

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for June 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 June.

**Administrator's
Report
(continued)**

2. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, The Residences at Rehoboth Bay (aka Love Creek Marina) received Substantial Completion effective July 16th.

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

**Discussion/
Proposed
Ordinance/
Chapter
110 / EDU
Assessments**

Vince Robertson, Assistant County Attorney, and Hans Medlarz, County Engineer, presented and reviewed a Proposed Ordinance relating to Chapter 110 of the Sussex County Code, EDU assessments. Mr. Medlarz referenced the changes made to Chapter 110 of the Code in May 2018 and noted a few corrections need to be made and a few EDU issues need to be addressed, i.e. EDU categories (emergency type facilities, nursing homes, hospitals, and car dealerships and service stations).

**Introduction
of Proposed
Ordinance**

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 110, ARTICLE XIII, SECTION 110-88, SUBSECTIONS D AND H THEREOF, RELATING TO THE ESTABLISHMENT OF AMOUNT OF CHARGE".

The Proposed Ordinance will be advertised for Public Hearing.

**Federal
Payment
in Lieu
of Taxes**

Andrea Wall, Accounting Manager, reported that a check in the amount of \$38,898.00 has been received from the United States Department of the Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. This check represents payments under the Refuge Revenue Sharing Act covering Fiscal Year 2018. The amount is calculated by the U. S. Fish and Wildlife Service by prorating the total funds available for payment. The check is funded through revenues generated from the Prime Hook National Wildlife Refuge and from a supplemental congressional appropriation. Sussex County may use these funds for any governmental purpose. Mrs. Wall advised that the recommendation is to allocate the funds in the same percentage as other County tax collections, as the County has done in the past.

**M 370 19
Approve
Distribution
of Refuge
Revenue
Sharing
Funds**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the Accounting Department's recommended distribution of the Refuge Revenue Sharing Funds, as follows: Milford School District - \$7,859.04; Cape Henlopen School District - \$25,035.46; Sussex Technical School District - \$2,262.34; Sussex County - \$3,348.55; and Sussex County Libraries - \$392.61.

Motion Adopted: 5 Yeas.

**M 370 19
(continued)**

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

**RFP
Results/
Vehicle
Purchases**

Robert Schoonover, Manager of EMS Logistics, and Bobby Rogers of Environmental Services, presented the results of the Vehicle Purchases RFP for the 2020 model year. Four (4) bids were received and the bid results were presented; two (2) for vehicles and one (1) for the EMS response truck up-fits. The fleet team recommends award of the vehicle RFP to Hertrich Fleet Services, Inc. of Milford, DE for specifications A, F, G-1, G-2-1, H-1, 2, 3, 4, 5, 1-2; Winner Ford of Cherry Hill, NJ for specifications B, C, E, I-1; and First Due Customs, LLC of Seaford, DE for the retrofit of nineteen (19) EMS vehicles for anti-idle/electric HVAC and four (4) EMS response Suburban up-fits.

**M 371 19
Award
Bid/
RFP/
Vehicle
Purchases**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council accepts from the lowest bidder, Hertrich Fleet Services of Milford, DE, various Vehicle Proposals, Specifications A, F, G-2, G-2-1, H-1,2,3,4,5, 1-2 and Winner Ford of Cherry Hill, NJ, Specifications B, C, E, I-1, for the 2020 model year.

Motion Adopted: 5 Yeas.

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

**M 372 19
Award
Bid/
RFP/
Vehicle
Retrofits**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Council accepts from the lowest bidder, First Due Customs, LLC of Seaford, DE, the retrofit of nineteen (19) EMS anti-idle/electric HVAC systems and four (4) EMS Response Suburban up-fits.

Motion Adopted: 5 Yeas.

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

**Airport
Master
Plan
Update/
Consultant
Contract
Award and
FAA Grant
Acceptance**

Hans Medlarz, County Engineer, reported that the Delaware Coastal Airport is seeking to update its Airport Master Plan reflecting changes in operations and development since the current plan adoption in 2005. On April 16, 2019, the Council awarded the Aviation Planning Services contract to McFarland-Johnson, Inc. of Binghamton, NY, as the airport consultant for this project. Mr. Medlarz reported that the U.S. Secretary of Transportation, through the FAA, has offered an Airport Improvement Program grant of \$516,727.00 funding 90 percent of the total project cost of \$574,142.00. By accepting FAA's funding, the County will be accepting the associated federal obligations also. These

Airport Master Plan Update (continued) obligations are detailed in the County's Master Agreement with the FAA and other conditions included in the grant document. The Engineering Department recommends acceptance of the FAA grant offer and approval of the engineering services contract with McFarland-Johnson, Inc.

M 373 19 Accept FAA Grant/ Airport Master Plan Update A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council accepts the FAA's grant offer of \$516,727.00 as the United States' share of 90% of the allowable cost incurred in accomplishing the project, Master Plan Update.

Motion Adopted: 5 Yeas.

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

M 374 19 Award Contract/ Airport Master Plan Update A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Engineering Services Agreement between Sussex County and McFarland-Johnson, Inc. to provide professional services for the Sussex County Project A-19-32, Airport Master Plan Update, for a lump sum amount of \$571,392.00.

Motion Adopted: 5 Yeas.

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

FY 2019 General Labor & Equipment Contract/ Change Order Hans Medlarz, County Engineer, presented Change Order No. 1 for the General Labor & Equipment Contract, Project No. 19-01, which was awarded to George & Lynch, Inc. The original scope of the project did not include Chapel Branch nor the IBRWF Spray on Demand Loop projects. The Engineering Department is now requesting inclusion of both with limited up-front construction in the approved FY 20 scope of work. In addition, another legacy paving obligation (in Ocean View) has arisen which should also be included. The preliminary work for the Chapel Branch project would accommodate connection of Oakcrest Farms to the system on a temporary basis. This would allow elimination of the existing on-site disposal system which cannot meet its current permit. The Oakcrest Farm customers would be added to the sewer billing to cover the costs. The initial work on the IBRWF Spray on Demand Loop would accomplish the extension of the effluent main to the Artesian RIBS. Mr. Medlarz reported that the Engineering Department is requesting the approval of Change Order No. 1 – FY20, in the total amount of \$370,000.00 for the inclusion of Chapel Branch and IBRWF Spray on Demand Loop project to the scope for FY 20 and legacy paving

(continued) obligations.

M 375 19
Approve
Change
Order/
FY 2019
General
Labor &
Equipment
Contract

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. 1, FY20, for Contract No. 19-01, FY 2019 General Labor and Equipment, in the amount of \$370,000.00 for the inclusion of Chapel Branch Sewer District Expansion, Inland Bays Regional Wastewater Facility (IBRWF) Spray on Demand Loop and legacy paving obligations.

Motion Adopted: 5 Yeas.

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

Proposed
Messick
Develop-
ment SLD

Hans Medlarz, County Engineer, reported that polling was concluded for the Proposed Messick Development Streetlighting District and that the Engineering Department received petitions from forty-six percent (46%) of the residentially improved properties with the development in favor of establishing the District. Thereafter, the public hearing was advertised and held at which thirty-two (32) residents were in attendance. All people giving official testimony spoke in favor of the creation of a Streetlighting District. The Engineering Department recommends the adoption of a Resolution establishing the date, time and place of an election for the proposed Messick Development Streetlighting District with an estimated rate of \$68.50 per year, per assessable property.

M 376 19
Adopt
R 016 19

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Resolution No. R 016 19 entitled "A RESOLUTION TO ESTABLISH THE DATE, TIME, AND PLACE OF AN ELECTION TO BE HELD TO CONSIDER THE QUESTION OF ESTABLISHING THE PROPOSED MESSICK DEVELOPMENT STREETLIGHTING DISTRICT".

Motion Adopted: 5 Yeas.

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

Control
Cabinet
Upgrades
Project/
Substantial
Completion

Hans Medlarz, County Engineer, presented a request to grant Substantial Completion for Project M19-11, Control Cabinet Upgrades. The Environmental Services electrical team is doing the implementation of this project. Mr. Medlarz reported that all materials have been obtained and no additional materials were needed; therefore, no change orders are necessary.

- M 377 19**
Grant
Substantial
Completion/
Control
Cabinet
Upgrades
Project
- A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Substantial Completion for Project M19-11, Division of Environmental Services Control Cabinet Upgrades, be granted effective July 10, 2019, and any held retainage be released in accordance with the contract documents.
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea
- Use of**
Infra-
structure
Agreement/
Lighthouse
View,
Phase 2B
- John Ashman, Director of Utility Planning, presented a Use of Existing Infrastructure Agreement for the Lighthouse View Phase 2B project in the Fenwick Island Area. Such an arrangement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County. Under the proposed arrangement, Lighthouse View Phase 2B project will connect to the existing County-owned infrastructure. In return for utilization of said infrastructure, Lighthouse View LLC will contribute \$12,165.00 for the financial catch-up contribution of the existing infrastructure to serve 8.00 additional Equivalent Dwelling Units. System connection charges in place at the time of building permit request will still apply.
- M 378 19**
Approve
Use of
Infra-
structure
Agreement/
Lighthouse
View,
Phase 2B
- A Motion was made by Mr. Wilson, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Lighthouse View LLC for a capacity allocation in the regional transmission system, as presented.
- 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 379 19**
Council-
manic
Grant
- A Motion was made by Mr. Hudson, seconded by Mr. Burton, to give \$1,000.00 (\$500.00 each from Mr. Hudson's and Mr. Burton's Councilmanic Grant Accounts) to AIDS Delaware for AIDS Walk Delaware fundraiser and awareness event.
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

M 380 19 Councilmanic Grant **A Motion was made by Mr. Hudson, seconded by Mr. Burton, to give \$2,569.00 from Mr. Hudson's Councilmanic Grant Account to Delaware State College Alumni Association for Delaware State University Marching Band's performance in Rehoboth Beach.**

Motion Adopted: 5 Yeas.

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

M 381 19 Countywide Youth Grant **A Motion was made by Mr. Rieley, seconded by Mr. Burton, to give \$1,000.00 from Countywide Youth Grants to Make-A-Wish Delaware for the Giving Day Program.**

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 GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (45 APARTMENT UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS" (Conditional Use No. 2195) filed on behalf of Gulfstream Development, LLC (Kent Apartments) (Tax I.D. No. 134-16.00-382.00) (911 Address: None Available).**

Mr. Vincent introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.474 ACRE, MORE OR LESS" (Change of Zone No. 1893) filed on behalf of Lisa Horsey (Tax I.D. No. 132-12.00-113.00) (911 Address: 28537 Sussex Highway, Laurel).

Mr. Rieley introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.368 ACRES, MORE OR LESS" (Change of Zone No. 1894) filed on behalf of Howard Pepper, Jr. (Tax I.D. No. 533-4.00-61.00) (911 Address: 35029 DuPont Boulevard, Frankford).

Introduction of Proposed Ordinances (continued) **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 GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS” (Change of Zone No. 1895) filed on behalf of Gulfstream Development, LLC (Kent Apartments) (Tax I.D. No. 134-16.00-382.00) (911 Address: None Available).**

The Proposed Ordinances will be advertised for Public Hearing.

M 382 19 Go Into Executive Session **At 10:46 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, to recess the Regular Session and to into Executive Session for the purpose of discussing matters relating to collective bargaining, pending litigation, and land acquisition.**

Motion Adopted: 5 Yeas.

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

Executive Session **At 10:50 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to collective bargaining, pending litigation, and land acquisition. The Executive Session concluded at 12:05 p.m.**

M 383 19 Reconvene Regular Session **At 12:07 p.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: 4 Yeas, 1 Absent.

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

M 384 19 Join Litigation/ Opioid Crisis **A Motion was made by Mr. Burton, seconded by Mr. Rieley, that the Sussex County Council join litigation concerning the opioid crisis, retain attorneys for the litigation, and file suit in furtherance of the same, and that the Council affirms and ratifies all actions taken to date in this regard.**

Motion Adopted: 4 Yeas, 1 Absent.

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

M 385 19 **At 12:08 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson,**
Recess **to recess until 1:30 p.m.**

Motion Adopted: 4 Yeas, 1 Absent.

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

M 386 19 **At 1:30 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Wilson, to**
Reconvene **reconvene.**

Motion Adopted: 5 Yeas.

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

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF**
CZ 1882 **SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL**
 DISTRICT AND C-2 MEDIUM COMMERCIAL DISTRICT TO A HR-1
 HIGH-DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL
 PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND
 LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX
 COUNTY, CONTAINING 15.2 ACRES, MORE OR LESS” (Change of
 Zone No. 1882) filed on behalf of Nassau DE Acquisition Co., LLC (Tax I.D.
 No. 334-1.00-15.00 and 334-1.00-15.03) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on June 27, 2019 at which time action was deferred. On July 18, 2019, the Commission recommended approval with conditions (A through Q).

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

Ms. Cornwell reported that, since the Public Hearing before the Planning and Zoning Commission, nine (9) additional letters in opposition have been received.

The Council found that John Tracey, Attorney with Young Conaway; Alan Hill of Hillcrest Associates; and Nicole Kline-Elsier, Traffic Engineer with McMahon Engineers, were present on behalf of the application. They discussed the application for a rezoning from an AR-1 Agricultural Residential District and C-2 Medium Commercial District to a HR-1 High-Density Residential District – Residential Planned Community for 168 apartment units including 21 units in the County’s affordable housing program (21 units would be offered for rent under the SCRP Program). It was noted that this application has been revised significantly compared to

**Public
Hearing/
CZ 1882
(continued)**

the application considered by the Planning and Zoning Commission and the Sussex County Council last year; that a number of revisions have been made to the site design, including the orientation of the buildings, enhanced buffering to the rear of the property, and a reduction in parking in the rear of the property; that the proposal is now comprised of six three-story buildings all adhering to the 42 foot maximum height requirements; that there will be some garages with storage in the interior of the property for residents to store vehicles; that amenities include a clubhouse, a pool, tennis, pickleball, and bocce ball courts, and a grill/picnic area; that existing trees within the site and on adjoining land would be retained; that stormwater management areas would meet all State requirements; that two access points are proposed – one on Old Mill Road and one on Route One; and that the site is bordered on three sides by roads or commercial areas. They discussed the location of the site, the layout of the site, and water and sewer availability. They stated that the site is predominantly located in a Level 3 Investment Area with some portions in the rear of the property located in a Level 4 Investment Area (according to the Strategies for State Policies and Spending); that under the Comprehensive Plan, the site lies within the Coastal Area which permits residential uses and densities similar to the type proposed; that the application consists of two parcels and seeks to combine both parcels into a single lot; that other zonings in the area including other HR Districts and other commercial and residential projects in the area; and that there is a need for affordable housing in the County and especially on the eastern side of the County.

Mr. Tracey referenced the Housing Needs and Market Analysis. He noted that Delaware State Housing supports the project and that the Sussex County Community Development and Housing Department has stated that the project qualified for support under the terms of the Sussex County Rental Program (SCRIP).

Mr. Tracey stated that this application is not taking advantage of any density bonuses; that the application is within the permitted density for the HR-1 zoning; that in regard to traffic, the application has been reviewed by DelDOT as part of the PLUS process; that DelDOT is undertaking a project on Route One (Minos Conaway interchange) to create frontage roads, to relocate the main portion of Route One; that a Traffic Impact Study was not required by DelDOT; that the Applicant will have to perform whatever analysis DelDOT believes is appropriate; that the DelDOT project has a completion date of 2025; that this application's completion date is estimated to be the end of 2022 / beginning of 2023; that Old Mill Road is a DelDOT Street; that a portion of Old Mill Road will be improved as a part of this project making it compliant with what DelDOT's current requirements are, which are two 11-foot travel lanes, two 5-foot shoulders, and perhaps adjustments at the intersection with the frontage road; and that DelDOT has been conducting a separate analysis independent of the proposed project.

**Public
Hearing/
CZ 1882
(continued)**

Ms. Kline-Elsier discussed traffic related items associated with the proposed project and the process moving forward. She reviewed the roadway network, overall site trip patterns, traffic volumes, traffic generated by the site, estimated trips generated, access to the site, interim improvements that may be required on Route One by the Applicant, an area wide study fee in lieu of a Traffic Impact Study, and the requirement of a Traffic Operational Analysis. Ms. Kline-Elsier reported that DelDOT has stated that the Applicant will be required to provide some additional short-term improvements prior to the DelDOT Route One project for this area. Ms. Kline-Elsier referenced the Five Points Transportation Study which shows the fifteen locations along Route One that are incorporated into the study, ranking each location based on number of crashes.

Mr. Tracey referenced the Planning and Zoning Commission's recommendation that "No more than 90 dwelling units shall be constructed until the conversion of the northbound lanes of Route One into a service road is completed." and asked that this not be a limitation by Council, if approved.

Bill Brockenbrough and Susanne Laws of DelDOT were in attendance and participated in a discussion with Council regarding Route One projects and completion timeline.

Public comments were heard.

Katie Millard, Todd Fisher and Mike Long spoke in support of the application stating that it is hard for people who wish to rent to find anything that is affordable; that most of the area around the application site is commercial; that the proposed zoning is a good fit for the area; that the Applicant will make improvements to Old Mill Road; that the project will bring water and sewer to the area which should benefit the residents of the surrounding area; and that the project will not negatively impact the area.

Bill Landon, Mark Wright, Celeste Marvin, Mark Wolfe, Ira Lourie, George Dellinger, Ruth Cohen, Erwin Villiger, Nathan Villiger, Jerry Trifellis, Vince Brady, Jeff Stone (SARG), and Lisa Wright spoke in opposition to the application. They expressed concern about safety citing the traffic on Route One and the dangerous intersections, the safety of children walking and riding bikes on Old Mill Road, the safety of residents walking / biking to trails or stores, the ability of emergency vehicles to respond, the negative impact on property values, the impact on wildlife and the environment, and the impact on well water and the rainwater recharge zone. They stated that the site should remain AR-1; that DelDOT's estimates for daily average trips do not make sense; that road improvements are needed in this area; that there is a dangerous and deadly traffic situation on Route One; that unsafe highway access already exists; that this project will compound the traffic issue and the safety issue; that this project will impact many intersections along Route One and many developments, that the right-in and right-out median design is not adequate

**Public
Hearing/
CZ 1882
(continued)**

nor safe, that the County should request a Traffic Impact Study; that none of the intersections are satisfactory; that this project's in/out traffic will block Old Mill residents from access to SR1 and will intrude on the Stachell family's privacy; that adjacent property owners will be negatively impacted by road work and they question what compensatory measures are planned for these property owners; that the intersections cannot be brought into today's capacity and safety standards, no matter what is done; and that this project will increase the traffic to intersections that are knowingly under-designed. They stated that there will be a negative impact to soil and water; that the project will destroy agricultural and forested acreage, replacing it with impervious surfaces, thus creating rain water runoff issues and jeopardizing private wells; that in regards to forested buffers, the Developer's visuals are misleading – a cleared utility right-of-way along Broeders Lane means there is little existing vegetation that will remain along that side of the property; that this area is next to the Great Marsh and the application is out of character with the communities in the area and will negatively impact quality of life; that this is not the right location for an affordable housing project; that the Applicant increased density to accommodate the affordable housing units; that the project is not in keeping with the character of the area; that this location is not appropriate for the proposed density; that all of the proposed 168 units are to be located on one of the two parcels contained in the application thereby creating a density of 13.5 units per acre, which is in excess of the density allowed in the Coastal Area (maximum of 12); that DNREC needs to be questioned regarding the impact on a treatment plant on another site along Old Mill Road; that large construction vehicles will result in dust, noise and light pollution; that approval of this application would set a precedent; that in 2014, a nearby wooded area had a proposal for a storage facility and that application was denied; that only one of the conditions are met for the Coastal Area in the 2018 Comprehensive Plan and none of the conditions are met for the Strategies for State Policies and Spending; that an environmental impact assessment has not been performed; that they question the setbacks proposed by the Applicant and questioned whether the 200 feet will be enforced; that apartment dwellers are transient and there will be more people staying in the apartments on weekends; that road improvements by DelDOT should be done before any development is allowed; that the proposed project is not responsible growth; that a comprehensive Traffic Impact Study is essential; that the application is not in keeping with the 2018 Comprehensive Plan; and that when public safety is at risk, the County's land use decision criteria must shift to protecting the public. Mr. Stone (SARG) referenced the Memorandum of Understanding (MOU) between the County and DelDOT and stated that the MOU was not used for this project and they question why.

There were no additional public comments.

The Public Hearing was closed.

**M 387 19
Defer
Action on
CZ 1882**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to defer action on Change of Zone No. 1882 filed on behalf of Nassau DE Acquisition Co., LLC and that the record will remain open for 15 days for the Council to ask questions of staff and State agencies (in writing).

Motion Adopted: 4 Yeas, 1 Absent.

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

(Mr. Burton left the meeting near the end of the Public Hearing.)

**M 388 19
Adjourn**

At 4:59 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Wilson, to adjourn.

Motion Adopted: 4 Yeas, 1 Absent.

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