

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 30, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 30, 2019, at 1:00 p.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 389 19
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to amend the Agenda by deleting “Executive Session – Land Acquisition” and “Possible Action on Executive Session Items”, 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 23, 2019 were approved by consent.

**Public
Comments**

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

Retiree

The Council recognized Brent D. Hudson, who retired as of July 26, 2019 after serving over 28 years as a Sussex County Paramedic.

**Library
Advisory
Board**

Mr. Lawson reported that the term of Mary Schwanky on the Library Advisory Board has expired and that she has agreed to serve a second term.

**M 390 19
Reappoint
Board
Member**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Council approves the reappointment of Mary Schwanky to the Sussex County Library Advisory Board, effective immediately, until such time that her term expires on June 30, 2022.

**M 390 19
(continued)**

Motion Adopted: 5 Yeas.

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

**Source
Water
Protection
Technical
Advisory
Committee
(SWP TAC)
Appoint-
ments**

Mr. Lawson reviewed the County's Source Water Protection Technical Advisory Committee (SWP TAC) and submitted names for appointment to the committee. Mr. Lawson noted that the SWP TAC is currently not appointed; the Council is authorized to appoint the SWP TAC in accordance with Sussex County Code §89-10. Per the Code, each Council person needs to appoint 2 members; of the 10-person committee, 5 need to be lay persons with basic knowledge of groundwater hydrology and 5 need to be licensed Delaware professional engineers, geologists, or hydrologists. Mr. Lawson reported that he, along with the County Engineer, has recruited 10 people who are qualified and willing to serve on the Committee, as follows:

- **Anita Beckel, DE Rural Water Association**
- **Diane Calloway, DelTech**
- **Greg Coury, Tidewater**
- **Rick Duncan, Town of Selbyville**
- **Byron Jefferson, Engineering**
- **Greg Sauter, GRA Consultants**
- **Blair Venables, DNREC**
- **Jessica Watson, Sussex Conservation District**
- **David Wunsch, DE Geological Survey**
- **Rodney Wyatt, Artesian**

**M 391 19
Appoint
SWP TAC
Members**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the appointments of the following to the Sussex County Source Water Protection Technical Advisory Committee, effective August 1, 2019, for a term of two years: Anita Beckel, Diane Calloway, Greg Coury, Rick Duncan, Byron Jefferson, Greg Sauter, Blair Venables, Jessica Watson, David Wunsch, and Rodney Wyatt.

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:

1. Council Meeting Schedule

Council will not meet on Tuesday, August 6th. The next regularly scheduled Council meeting will be held on Tuesday, August 13th.

- MOU Update/Collection of Roadside Litter and Trash** Mike Costello, Government Affairs Manager, provided an update on the roadside litter and trash collection activities that have taken place under the 2018 Memorandum of Understanding (MOU) between the Department of Corrections, DelDOT, and Sussex County. Mr. Costello noted the increase in activity in this second 6-month period (January through June 2019), stating that the MOU is working well and at no cost to the County.
- GIS Initiatives Update and Esri Award Announcement** Megan Nehrbas, GIS Manager, gave a presentation on GIS initiatives and efficiencies being implemented throughout the County.
- The Council recognized the GIS and Mapping staff for receiving a Special Achievement in GIS (SAG) Award from the Esri software developer, recognizing their outstanding work with GIS technology. Mrs. Nehrbas noted that the award is for their work on the broadband initiative and the applications and maps associated with it.
- Lochwood Expansion of the SCUSSD** John Ashman, Director of Utility Planning, presented a proposal for the Lochwood Expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area). The Engineering Department received a request from the Homeowners Association to speak at their annual meeting. The discussion was pertaining to the possibility and potential costs associated with the County extending the Sewer District boundary to serve the community. In response, polling letters were sent to the entire community. The results of the poll to date show 85 (38%) parcels in support and 66 (30%) opposed; in total, 222 parcels were polled with 151 (68%) responding. The Engineering Department is requesting permission to prepare and post notices for a Public Hearing on the annexation of the area.
- M 392 19 Authorize Posting of Notices/Lochwood Expansion of the SCUSSD** A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Engineering Department is authorized to prepare and post notices for the Lochwood Expansion of the Sussex County Unified Sanitary Sewer District to include parcels within the Lochwood Subdivision, 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 393 19 Countywide Youth Grants** A Motion was made by Mr. Rieley, seconded by Mr. Burton, to give \$1,000.00 from Countywide Youth Grants to Millsboro Little League for travel expenses.
- Motion Adopted:** 5 Yeas.

**M 393 19
(continued)**

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

**M 394 19
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to give \$3,000.00 (\$1,000.00 each from Mr. Rieley's and Mr. Hudson's Councilmanic Grant Accounts and \$500.00 each from Mr. Burton's and Mr. Vincent's Councilmanic Grant Accounts) to Delaware Botanic Gardens for Grand Opening sponsorship.

Motion Adopted: 5 Yeas.

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

**M 395 19
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Riley, to give \$3,000.00 (\$1,000.00 each from Mr. Vincent's, Mr. Wilson's, and Mr. Rieley's Councilmanic Grant Accounts) to the Bridgeville Apple Scapple Festival for expenses.

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/
Rules**

At 1:35 p.m., public hearings were held.

Mr. Moore read the rules of procedures for public hearings.

**Public
Hearing/
CU 2177**

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 AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS" (Conditional Use No. 2177) filed on behalf of Ingrid Hopkins (Tax I.D. No. 334-10.00-53.00 (portion of) and 334-10.00-55.00 (portion of) (911 Address: 30249 Fisher Road, Lewes).

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.

(See the minutes of the Planning and Zoning Commission dated June 27 and July 18, 2019.)

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

**Public
Hearing/
CU 2177
(continued)**

The Council found that Ingrid Hopkins was present on behalf of her application. She stated that they wish to grow their business on the family's dairy farm; that the farm is agriculture preserved land; that the use will have no effect on the operations of the farm; that no new structures will be built; that old buildings will be repurposed; and that there is an area for parking and there will be no parking along the roadway.

There were no public comments.

The Public Hearing and public record were closed.

**M 396 19
Adopt
Ordinance
No. 2670/
CU 2177**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2670 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS" (Conditional Use No. 2177) filed on behalf of Ingrid Hopkins, with the following conditions:

- A. Food and beverage service and music or similar entertainment is permitted.
- B. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County roads.
- C. All entrance locations shall be subject to the review and approval of DelDOT.
- D. All events shall conclude prior to 11:00 p.m., with music ending no later than 10:00 p.m.
- E. The Final Site Plan shall be subject to the review and approval of the Sussex County 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**

**Public
Hearing/
CZ 1883**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF CHANGE OF ZONE NO. 1475 (ORDINANCE NO. 1573) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 787.787 ACRES, MORE OR LESS" (Change of Zone No. 1883) filed on behalf of OA-BP Marina Bay-Lakeside, LLC (Tax I.D. No. 234-30.00-1.00 through 430.00) (911 Address: None Available).

**Public
Hearing/
CZ 1883
(continued)**

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.

(See the minutes of the Planning and Zoning Commission dated June 27 and July 18, 2019.)

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

The Council found that Ring Lardner with Davis Bowen & Friedel was present on behalf of the application. Mr. Lardner explained that the application is for an amendment to Condition #1 to Ordinance #1573 so that “The maximum number of units shall not exceed 1,394 units comprised, as follows: 358 Single Family Lots, 388 Single Family Detached Condominiums, 270 Single Family Attached Town Houses, and 378 Multi-Family Units.”; this results in an increase of 35 single family lots, an increase of 10 single family detached condominiums, a reduction of 55 Single Family Attached Town Houses, and no change in the number of multi-family units); that there would be a total reduction of 10 units; that the request is due to market and trend changes; and that the market indicates that more single family units are desired.

Public comments were heard.

There were no public comments in support of the application.

Steve Dulin spoke in opposition to the application. He stated that he is a resident of The Peninsula since 2008; that he objects to the application because when he and others bought into the project, the number of units (1,404) would support the cost of all general maintenance and upkeep; that the division of housing development he bought into carried the load of The Peninsula for about eight years with only about 10 percent of the property space paying 40 percent of the dues and costs to maintain the property because the build-out was not going well; that most of the condominium owners owned most of the properties but had the fewest number of spaces; that he bought into 1404 units and that is what he wants to see built there; that this change, if approved, will cost the existing homeowners money; that the inducements to buy into The Peninsula are legacy and some did not happen and it costed him and other people money; that he requests that the Council not approve this application unless other certain conditions are met; that he was unable to attend the public hearing before the Planning and Zoning Commission; and that he encourages Council to study this further before making a decision. Mr. Dulin referenced the clubhouse that was not built in the timeframe it was promised to be built and he commented on Schell Brothers, the Attorney General’s Office, and Wilmington Trust. He stated that property values were depressed and people were not able to sell properties nor were they able to get out of their properties.

**Public
Hearing
(continued)**

There were no additional public comments.

The Public Hearing and public record were closed.

**M 397 19
Defer
Action on
CZ 1883**

A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to defer action on Change of Zone No. 1883 filed on behalf of OA-BP Marina Bay-Lakeside, LLC

Motion Adopted: 4 Yeas, 1 Nay.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Nay;
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 AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AMENDMENTS TO CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 2127 (ORDINANCE NO. 2600) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 25.60 ACRES, MORE OR LESS” (Conditional Use No. 2196) filed on behalf of Wine Worx, LLC (Tax I.D. No. 134-11.00-53.00) (911 Address: 32512 Blackwater Road, Frankford).

Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (62 DUPLEX UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS” (Conditional Use No. 2197) filed on behalf of Fenwick Commons, LLC (Tax I.D. No. 533-19.00-52.00) (911 Address: Not Available).

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 MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS” (Change of Zone No. 1896) filed on behalf of Fenwick Commons, LLC (Tax I.D. No. 533-19.00-52.00) (911 Address: Not Available).

Mr. Burton 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 LEWES AND

Introduction of Proposed Ordinances (continued) **REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.97 ACRES, MORE OR LESS” (Change of Zone No. 1897) filed on behalf of Preston Dyer (Tax I.D. No. 334-4.00-37.01) (911 Address: 28855 Lewes Georgetown Highway (Route 9), Lewes).**

Mr. Burton 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 HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 67.31 ACRES, MORE OR LESS” (Change of Zone No. 1898) filed on behalf of Reed Farms, LLC (Tax I.D. No. 235-13.00-29.00, 29.01, and 235-14.00-570.00) (911 Address: 14888 Gravel Hill Road, Milton).

The Proposed Ordinances will be advertised for Public Hearing.

Council Members’ Comments

Council Members’ Comments

Mr. Wilson and Mr. Rieley commented on events at the Delaware State Fair.

M 398 19 Adjourn

A Motion was made by Mr. Hudson, seconded by Mr. Burton, to adjourn at 2:06 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.}