

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 31, 2018**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 31, 2018, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 420 18  
Amend  
and  
Approve  
Agenda**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to amend the agenda by deleting "Potential Litigation" (under Executive Session) and to approve the agenda, as amended.

**Motion Adopted: 5 Yeas.**

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

**Minutes**

The minutes of July 24, 2018 were approved by consent.

**Corre-  
spondence**

Mr. Cole received a letter from the Rehoboth Beach Historical Society in appreciation of a recent grant.

**Public  
Comments**

Scott Thomas spoke in support of Winter WonderFEST and its positive impact to the County.

Paul Reiger questioned the Board of Adjustment's rules of procedure, Ordinance No. 2557 (side setbacks), decisions made by the Board of Adjustment, and the District 2 reappointment on the Board. Council requested Mr. Reiger to submit his questions in writing to the County Administrator.

Dan Kramer made comment regarding the Board of Adjustment's rules of procedure.

**Winter  
Festival**

Mr. Lawson noted that members of the Winter Festival were in attendance. Mr. Peter Briccotto presented a PowerPoint presentation on behalf of the

**(Con't.)  
Festival  
of Cheer/  
Winter  
Wonder-  
FEST**

**Festival of Cheer, Inc., which produces Winter WonderFEST. Their primary mission is to create cultural events that transform and enrich the community, and to take the proceeds from those events and reinvest in the community via their community grant fund. Their organization was founded in January 2016 by 6 local business and community leaders. In attendance were John Snow, Board President; Brittany Danahy, Vice President; Hank Rosenberg 2<sup>nd</sup> Vice President; Amy Mault, Secretary; Peter Briscotto, and Josh Grapski. Winter WonderFEST was launched in November 2016; in July 2017, their organization awarded over \$100,000 in community grants to Sussex County charities from their first season. The growth of WonderFEST was discussed and it was noted that in July 2018, an additional \$30,000 was awarded from their second season. Planning is currently underway for the upcoming season. Winter WonderFEST is a 7-week holiday festival anchored by three main attractions: lights spectacular, Christmas village and Visit Delaware Ice Rink. The festival begins the weekend before Thanksgiving and is held on the Ferry grounds in Lewes. The event is supported by over 100 sponsors and producing partners; their 200 volunteers allow for a staff of only 3 part-time employees. Their first season saw 42,000 visitors and their second season realized 60,000 visitors from 31 states. Mr. Briccotto also discussed their operating budget, as well as plans for future expansion.**

**Mr. Briccotto commented that the Festival of Cheer would like to have a future partnership with the County. Council thanked Mr. Briccotto for his presentation and requested that he submit a written proposal to Mr. Lawson and Ms. Jennings.**

**M 421 18  
Approve  
Consent  
Agenda  
Items**

**A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve the following items listed under the Consent Agenda:**

- 1. Wastewater Agreement No. 516-8  
Sussex County Project No. 81-04  
The Landings at Pepper Creek (A/K/A The Marina at Pepper's Creek) –  
Phase 3-7  
Dagsboro/Frankford Sanitary Sewer District**
- 2. Wastewater Agreement No. 516-9  
Sussex County Project No. 81-04  
The Landings at Pepper Creek (A/K/A The Marina at Pepper's Creek) –  
Phase 3-6  
Dagsboro/Frankford Sanitary Sewer District**
- 3. Wastewater Agreement No. 918-17  
Sussex County Project No. 81-04  
Bay Forest Club – Phase 5.2 (Construction Record)  
Millville Expansion of the Bethany Beach Sanitary Sewer District**

(Con't.)

4. **Wastewater Agreement No. 1053-3  
Sussex County Project No. 81-04  
Belle Terre – Phase 1B (Construction Record)  
Goslee Creek Planning Area**
  
5. **Wastewater Agreement No. 1053-4  
Sussex County Project No. 81-04  
Belle Terre – Phase 1C (Construction Record)  
Goslee Creek Planning Area**

**Motion Adopted: 5 Yeas.**

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

**Wetlands  
and Buffers  
Discussion**

**Due to the complexity of the issue, Councilman Burton reported that he needed additional time to bring a proposed ordinance before Council regarding wetlands density calculations.**

**Public  
Hearing/  
Robinson  
Road  
Expansion/  
SCUSSD**

**A Public Hearing was held to consider expanding the boundary of the Sussex County Unified Sanitary Sewer District (Angola Neck Area). Mr. Ashman, Director of Utility Planning, reported that the expansion was requested by Insight Homes for their project (parcels 234-11.00-60.00, 64.00 & 62.03), and Solutions IPER on behalf of their client (Bryton Simpler for parcels 234-11.00-66.00 & 66.01) and The Kercher Group for their client (Double DB, LP for parcel 234-11.00-49.00). Several other parcels are included as part of the request to develop a contiguous boundary to the Angola Neck area; these parcels have been contacted by the developers and have agreed to the annexation. The expansion will consist of 336.00 acres, more or less, and the property owner(s) will be responsible for system connection charges of \$6,360.00 per EDU based on current rates. Mr. Ashman commented that they have also received a request for additional parcels to be added to the boundary; these parcels are associated with another upcoming project and are in the Engineering Department's Planning Area. These projects have proposed multiple pump stations and they wish to connect to the existing force main installed to service the Angola Neck area. The Engineering Department is orchestrating a combined regional project to reduce this to a single regional pump station. If this expansion is approved, the Engineering Department will come before Council at a future meeting with three individual Infrastructure Agreements for existing and proposed infrastructure and a request to utilize the Engineer of Record for the project with the proposed pump station location.**

**There were no public comments.**

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

**M 422 18  
Adopt  
R 010 18  
Robinson  
Road  
Expansion/  
SCUSSD**

**A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Resolution No. R 010 18 entitled, “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) ANGOLA NECK AREA, TO INCLUDE SEVERAL PARCELS IN THE ROBINSONVILLE ROAD & DORMAN ROAD AREA LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE, INCLUDING ADDITIONAL PARCELS, AS PRESENTED AT PUBLIC HEARING ON JULY 31, 2018”.**

**Motion Adopted: 5 Yeas.**

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

**George-  
town  
Little  
League**

**Helen Kruger, Board Member, and Dennis Swain, President, with the Georgetown Little League, were in attendance to present Council with a picture of the District III Girls’ Softball Team from Georgetown who were the 2017 District III Senior League World Series Champions. The Council originally recognized the team for their championship win during the August 22, 2017 Council meeting. Mr. Swain thanked Council for their continued support.**

**Capital  
Transportation  
Program**

**Mr. Lawson reported that there will be a few changes to the County’s Capital Transportation Program (CTP) which will be submitted to the Delaware Department of Transportation (DelDOT). Council was provided with copies of Sussex’s portion of the annual CTP spreadsheet produced by DelDOT. Each year, the County provides a list of projects for DelDOT’s consideration; prior to the list being sent, it is reviewed by Council. After a public hearing held by the Department of Transportation in September, they then incorporate that list into their annual CTP request list. Mr. Lawson noted that this year’s change can be seen in the improvement of the CTP form on the County’s website and the information gathered from the public. He also noted that as a result of the CTP spreadsheet produced by DelDOT, the County will no longer create its customary booklet, but will, instead, submit a spreadsheet. To better pinpoint the location of a recommendation received online, the suggestion was made for the inclusion of a map on the CTP link on the County’s website; Mr. Lawson will pursue this recommendation with DelDOT. The public is encouraged to offer suggestions for the upcoming 2020-2025 Capital Transportation Program. Submissions will be accepted now through August 10.**

**Town of  
Delmar**

**Michael Houlihan, Mayor of Delmar, Delaware, along with State Representative Tim Dukes and Sara Bynum-King, Town Manager, appeared before Council. The Town of Delmar came before Council on June 12, 2018 to request Council’s consideration of infrastructure funding**

(Con't)  
Infra-  
structure  
Request

for the relocation of Perdue's global headquarters to the north US 13 corridor in Delmar. Mayor Houlihan reported that the Town has committed \$125,000 and has secured to date \$205,000 from the State of Delaware for this project. They are now requesting \$125,000 from the County. Mr. Lawson noted that possible funding from the County would be through the Fiscal 2019 Contingency Account. The upgrades would serve 5 adjacent parcels as well, furthering boosting economic development in the area. Mr. Lawson read a proposed Resolution into the record.

M 423 18  
Adopt  
R 011 18

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Resolution No. R 011 18 entitled, "RESOLUTION GRANTING THE TOWN OF DELMAR \$125,000 FOR TOWN INFRASTRUCTURE IMPROVEMENTS".

Motion Adopted: 5 Yeas.

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

Adminis-  
trator's  
Report

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

1. DelDOT 2020-2025 Capital Transportation Program

Sussex County invites the public to offer suggestions for the upcoming 2020-2025 Capital Transportation Program (CTP) request, which the County Council will submit to the Delaware Department of Transportation in September. Residents and property owners with ideas for improving local roads, pedestrian walkways, public transportation, and other related infrastructure and services can go onto the County's website to submit their suggestions.

Please visit [www.sussexcountyde.gov](http://www.sussexcountyde.gov) and click on the link to fill out a suggestion form, as well as to view last year's County request. This year's CTP form is being adjusted to improve the information the County receives from the public.

Submissions will be accepted now through August 10<sup>th</sup>. County staff will review all suggestions and then compile a draft report for County Council's review before submitting the final recommendation to DelDOT for their public hearing in September.

2. County Council Meeting Schedule

Please note, Council will not meet on Tuesday, August 7<sup>th</sup>. The next regularly scheduled Council meeting will be held on Tuesday, August 14<sup>th</sup>.

**(Con't.) [Attachments to the Administrator's Report are not attachments to the minutes.]**

**Old Business/  
CU 2113/  
CleanBay** Under Old Business, the Council considered Conditional Use No. 2113 filed on behalf of CleanBay Renewables, LLC, Sussex I.

**The Planning and Zoning Commission held a Public Hearing on this application on January 25, 2018 and deferred action. On February 8, 2018, the Commission recommended approval for the following reasons and conditions:**

- 1. The proposed Conditional Use is to establish a facility for nutrient recovery and conversion of poultry litter into electrical generation. The use and process of electrical generation will not include any incineration or composting of poultry waste.**
- 2. The site is a 16.71 acre parcel of land with frontage on Route 113, which is one of the 3 major north-south truck routes through Sussex County. The site is also in close proximity to the existing electrical power grid. This is an appropriate and necessary location for this type of use.**
- 3. The proposed use is consistent with other existing uses in the immediate vicinity, which include a large borrow pit, an asphalt plant, a large construction contractor equipment yard and an airstrip.**
- 4. The proposed use is an agribusiness use which takes chicken litter, a byproduct of the Delmarva poultry industry, and converts it to electrical energy. This is a benefit to the agricultural industry of Sussex County through the re-use of chicken litter. It is also a benefit to residents and businesses within Sussex County by creating an economical alternative energy source for Sussex County and Delaware utility providers.**
- 5. The entire process occurs within a closed system, from the time that the material delivered to the site arrives via truck through the end of the process when the pelletized remnants are removed from the site. There is no open storage of any material on site at any time.**
- 6. There was nothing in the record to indicate that there will be significant odors from the site. And, given the current AR-1 zoning of the site, there are reasonable expectations that the site could currently be used for agricultural purposes that do generate odors associated with farming and poultry operations.**
- 7. While there were concerns about traffic generated by the use, the actual amount of traffic is relatively minor given the prominent location of the site along Route 113 adjacent to other existing heavy uses. The applicant testified that there are no more than 12 truck deliveries to the site per day and there are few employees associated with the use. And, the Delaware Department of Transportation will dictate entrance and roadway improvements necessitated by the use.**
- 8. The applicant testified that the use does not generate an extensive amount of noise. Any noise coming from the conversion process or the**

(Con't.)

generators is comparable to the noise already created by traffic along Route 113.

9. The applicants will be required to obtain all necessary permits and approvals from the Delaware Department of Natural Resources and Environmental Control, particularly those relating to air and water quality controls, and other agencies, prior to any operations on the site.
10. I am satisfied that this parcel is appropriate for development given its proximity to the highway and being surrounded by other heavy commercial types of uses. This particular use, with the conditions and limitations placed upon it, will not have an adverse impact upon neighboring properties or the community.
11. This proposed use supports one of the primary goals of the current Sussex County Land Use Plan as stated on page 1 of that document: Conserve the County's agricultural economy. This goal is also restated in the Future Land Use Element of the Plan. This agribusiness use provides a market for the chicken litter byproduct of poultry operations which benefits and helps conserve the agricultural economy of Sussex County.
12. This recommendation is subject to the following conditions:
  - A. All improvements for nutrient recovery and electrical generation shall be constructed and maintained in accordance with the Delaware Department of Natural Resources and Environmental Control, the State Fire Marshal, and any other state or federal agencies that have any jurisdiction over the development and use of the site.
  - B. As proffered by the applicant, all buildings on the site shall have an agricultural appearance. This shall not apply to the generators, holding and treatment tanks or towers located on the site.
  - C. The generators must have sound suppression measures in place and they must be located as far as possible from Breasure Road.
  - D. All trucks entering or leaving the site shall be completely enclosed at all times.
  - E. All materials brought to the site shall be offloaded from trucks using a conveyor system. No open dumping shall be permitted.
  - F. No chicken litter or other materials brought to the site or the end-product from the use shall be stored outside on the site. All materials brought to the site shall be immediately offloaded from trucks into the facility's closed system.
  - G. Truck deliveries to the site shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Saturday, and there shall be no more than 12 deliveries of materials per day. No deliveries shall occur on Sunday, and no trucks containing materials shall remain on the site beyond the delivery hours or on Sundays.
  - H. The Final Site Plan shall include a thirty-foot wide "Forested and/or Landscaped Buffer Strip" meeting the planting requirements of Section 99-5 of the Code of Sussex County. Section 99-5 dictates the types of trees and vegetation, the density of the required trees and other plantings, minimum heights, and other requirements. The

(Con't.)

- Final Site Plan shall contain a landscaping plan for these buffer areas.**
- I. The applicant shall comply with all DeIDOT requirements for roadway and entrance improvements.**
  - J. One lighted sign shall be permitted on the site. The sign shall not exceed 32 square feet per side. Small directional signs shall also be permitted at the entrances to the site. The location of the signage shall be shown on the Final Site Plan.**
  - K. Any violations of the conditions of approval may result in the termination of this Conditional Use.**
  - L. The Final Site Plan shall contain the approval of the Sussex Conservation District regarding drainage and stormwater management requirements.**
  - M. Any security lighting shall be designed so that it is downward screened so that it does not shine on neighboring properties or roadways. In addition, all exterior lighting shall automatically be dimmed between 9:00 p.m. and 6:00 a.m.**
  - N. Prior to Final Site Plan approval, the applicant shall obtain a baseline water quality sample and the report from that shall be submitted to the Office of Planning and Zoning to confirm the groundwater quality prior to any development of the site.**
  - O. The Final Site Plan shall be subject to the approval of the Sussex County Planning and Zoning Commission.**

**The County Council held a Public Hearing on the proposed application on February 20, 2018 and deferred action.**

**Mr. Moore reported that Councilman Wilson had requested him to draft amendments for Council's consideration; specifically, the adding of a condition to be known as Condition D to reflect that there will no entrance to or from Breasure Road, and delete the wording" and there shall be no more than 12 deliveries of materials per day" in the newly re-lettered Condition H. Due to the adding of another condition, all subsequent conditions will be re-lettered to reflect Conditions A through P.**

**M 424 18  
Amend  
Conditions/  
CU 2113**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to approve the adding of a new condition for CU 2113 to now be known as Condition D which will read, 'No entrance to the site shall be to or from Breasure Road'.**

**Motion Adopted: 5 Yeas.**

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

**M 425 18  
Amend  
Conditions**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend the newly re-lettered Condition H for CU 2113 to remove the wording, "and there shall be no more than 12 deliveries of materials per day".**

(Con't.)  
CU 2113

**Motion Adopted: 5 Yeas.**

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

M 426 18  
Adopt  
Ordinance  
No. 2589/  
CU 2113

**A Motion was made by Mr. Arlett, seconded by Mr. Cole, to adopt Ordinance No. 2589 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL GENERATION AND NUTRIENT RECOVERY FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 16.71 ACRES, MORE OR LESS" (Conditional Use No. 2113) filed on behalf of CleanBay Renewables, LLC Sussex I, with conditions, as amended A. thru P.**

- A. All improvements for nutrient recovery and electrical generation shall be constructed and maintained in accordance with the Delaware Department of Natural Resources and Environmental Control, the State Fire Marshal, and any other state or federal agencies that have any jurisdiction over the development and use of the site.**
- B. As proffered by the applicant, all buildings on the site shall have an agricultural appearance. This shall not apply to the generators, holding and treatment tanks or towers located on the site.**
- C. The generators must have sound suppression measures in place and they must be located as far as possible from Breasure Road.**
- D. No entrance to the site shall be to or from Breasure Road.**
- E. All trucks entering or leaving the site shall be completely enclosed at all times.**
- F. All materials brought to the site shall be offloaded from trucks using a conveyor system. No open dumping shall be permitted.**
- G. No chicken litter or other materials brought to the site or the end-product from the use shall be stored outside on the site. All materials brought to the site shall be immediately offloaded from trucks into the facility's closed system.**
- H. Truck deliveries to the site shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Saturday. No deliveries shall occur on Sunday, and no trucks containing materials shall remain on the site beyond the delivery hours or on Sundays.**
- I. The Final Site Plan shall include a thirty-foot wide "Forested and/or Landscaped Buffer Strip" meeting the planting requirements of Section 99-5 of the Code of Sussex County. Section 99-5 dictates the types of trees and vegetation, the density of the required trees and other plantings, minimum heights, and other requirements. The Final Site Plan shall contain a landscaping plan for these buffer areas.**
- J. The applicant shall comply with all DelDOT requirements for roadway and entrance improvements.**
- K. One lighted sign shall be permitted on the site. The sign shall not exceed 32 square feet per side. Small directional signs shall also be permitted at**

- (Con't.)                    **the entrances to the site. The location of the signage shall be shown on the Final Site Plan.**
- L. Any violations of the conditions of approval may result in the termination of this Conditional Use.**
  - M. The Final Site Plan shall contain the approval of the Sussex Conservation District regarding drainage and stormwater management requirements.**
  - N. Any security lighting shall be designed so that it is downward screened so that it does not shine on neighboring properties or roadways. In addition, all exterior lighting shall automatically be dimmed between 9:00 p.m. and 6:00 a.m.**
  - O. Prior to Final Site Plan approval, the applicant shall obtain a baseline water quality sample and the report from that shall be submitted to the Office of Planning and Zoning to confirm the groundwater quality prior to any development of the site.**
  - P. The Final Site Plan shall be subject to the approval of the Sussex County Planning and Zoning Commission.**

**Motion Adopted:    5 Yeas.**

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

**Old  
Business/  
CU 2130/  
The  
Evergreene  
Companies**

**Under Old Business, the Council considered Conditional Use No. 2130, filed on behalf of The Evergreene Companies, LLC. During the Public Hearing on July 24, 2018, Council deferred action to allow Mr. Medlarz, County Engineer, to report back to Council regarding odor concerns and the wastewater capacity of Pump Station No. 172.**

**Mr. Medlarz reported that Pump Station No. 172 has available capacity to support the proposed application. He also noted that there is no record of recent complaints as far as odor concerns and there is an upgraded odor control system; the County installed a Bio-Air system replacing an older carbon type filtration system at the pump station to improve any odor issues that may have previously existed.**

**The public and applicant now have a 15-day period to submit written comments.**

**Use of  
Existing  
Infra-  
structure  
Agreement**

**John Ashman, Director of Utility Planning, presented for Council's consideration a Use of Existing Infrastructure Agreement with Baylis Estates Investments, LLC for the Baylis Estates project in the Oak Orchard area. The arrangement allows the wastewater originating from the approved project, as well as off-site equivalent dwelling units, to be conveyed through the existing transmission system previously constructed by the County. Under the proposed arrangement, Baylis Estates will connect to the existing force main system that will connect to existing**

(Con't.) regional infrastructure that goes to the County's Inland Bays Facility. In return for utilization of said infrastructure, Baylis Estates Investments, LLC will contribute \$73,039.00 for the perpetual use of these transmission facilities to serve 138 equivalent dwelling units.

**M 427 18**  
**Approve**  
**Use of**  
**Existing**  
**Infra-**  
**structure**  
**Agreement/**  
**Baylis**  
**Estates**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, 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 Baylis Estates Investments, LLC for a capacity allocation in the regional transmission system, as presented on July 31, 2018.

**Motion Adopted: 5 Yeas.**

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

**Use of**  
**Existing**  
**Infra-**  
**structure**  
**Agreement**

Mr. Ashman presented for Council's consideration a Use of Existing Infrastructure Agreement with BB Lovett, LLC for the Lovett's Reserve project in the Angola Neck area. This arrangement allows the wastewater originating from the approved project, as well as off-site equivalent dwelling units, to be conveyed through the existing transmission system previously constructed by the County. Under the proposed arrangement, Lovett's Reserve will connect to the existing gravity collection system that will connect to existing regional infrastructure that goes to the County's Inland Bays Facility. In return for utilization of said infrastructure, BB Lovett, LLC will contribute \$14,287.00 for the perpetual use of these transmission facilities to serve 31 Equivalent Dwelling Units.

**M 428 18**  
**Approve**  
**Use of**  
**Existing**  
**Infra-**  
**structure**  
**Agreement/**  
**Lovett's**  
**Reserve**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, 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 BB Lovett, LLC for a capacity allocation in the regional transmission system, as presented on July 31, 2018.

**Motion Adopted: 5 Yeas.**

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

**Financing**  
**Agreement/**  
**City of**  
**Rehoboth**

Mr. Medlarz, County Engineer, presented an Alternative Financing Agreement with the City of Rehoboth Beach for the Rehoboth Plant Upgrades, Phase 2. The agreement is set up as a partnership allowing the City and the County to jointly develop alternatives for the next phases of the treatment plant upgrade project. On July 20, 2018, the City Council

(Con't.) agreed to accept the County's offer to assume the design and construction responsibilities of Phase 2 of the upgrade consisting mostly of electrical and structural reliability issues. The City would reimburse the County for the prorated costs incurred over a 10-year period at 0 percent interest. The Finance Director and the County Engineer, in cooperation with City officials, drafted the alternative financing agreement for Council's consideration.

**M 429 18** A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the  
**Approve** recommendation of the Sussex County Engineering and Finance  
**Financing** Departments, that Council approve the alternative financing agreement for  
**Agreement/** design and implementation of the Wastewater Treatment Plant Capital  
**City of** Improvement Plan, Phase 2, with the City of Rehoboth Beach, as presented.  
**Rehoboth**

**Motion Adopted: 5 Yeas.**

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

**Rehoboth** Hans Medlarz presented Contract Amendment No. 14 under GHD, Inc.  
**Plant** Base Contract, Design of Phase Upgrades at the Rehoboth Beach  
**Upgrades/** Wastewater Treatment Facility. GHD, Inc. is the Engineer of Record for  
**Amendment** the County's South Coastal Regional Wastewater Facility, as well as for the  
**#14** Rehoboth Beach Wastewater Treatment Plant. Mr. Medlarz explained the  
previous amendments to this project. The Engineering Department is now  
requesting Council to approve Amendment 14 for design services of the  
City's Phase 2 capital upgrade project in the amount of \$398,413.20.

**M 430 18** A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the  
**Approve** recommendation of the Sussex County Engineering Department, that  
**Amendment** Amendment No. 14 to the base engineering contract with GHD, Inc., be  
**No. 14/** approved in the amount not to exceed \$398,413.20, for design services for  
**GHD, Inc.** the Rehoboth Beach Wastewater Treatment Plant Capital Improvement  
Program Upgrade, Phase 2, in a joint project with the expansion of the  
South Coastal Regional Wastewater Facility.

**Motion Adopted: 5 Yeas.**

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

**Main-** Mr. Medlarz presented Change Order No. 1 in the amount of \$8,970.00 for  
**tenance** the Sussex County Maintenance Garage Project, Project #17-09, for a new  
**Garage** total of \$2,002,080.00. The change order is needed due to a foundation  
design change.

**M 431 18**  
**Approve**  
**Change**  
**Order/**  
**Mainten-**  
**ance**  
**Garage**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract #17-09, Sussex County Maintenance Garage, be approved, which increases the contract amount by \$8,970.00, for a new contract total of \$2,002,080.00.

**Motion Adopted: 5 Yeas.**

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

**Grant**  
**Requests**

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

**M 432 18**  
**Youth**  
**Grant**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give \$1,000.00 from Countywide Youth Grants to the Millsboro Little League (comprising of girls from Laurel, Seaford, and Millsboro) for travel expenses to the regional championship to be held in Connecticut.

**Motion Adopted: 5 Yeas.**

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

**M 433 18**  
**Council-**  
**manic**  
**Grant**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to give \$2,000 (\$1,500 from Mr. Cole's Councilmanic Grant Account and \$500 from Mr. Burton's Councilman Grant Account) to True Blue Jazz, Inc. for their 2018 True Blue Jazz Festival.

**Motion Adopted: 5 Yeas.**

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

**Council**  
**Members'**  
**Comments**

Mr. Cole made comment regarding information learned during the recent NACo Conference; more specifically, that the State of Wyoming had become a trade free zone. He questioned the merits of pursuing the possibility for the County and/or State; Mr. Lawson will further explore the issue.

Mr. Vincent mentioned Mr. Burton's attendance at an Affordable Housing workshop held as part of the recent NACo Annual Conference and the fact that this is an ongoing issue the County continues to ask staff to review.

Mr. Arlett welcomed the teams from around the world to Sussex County as they participate in the World Series currently being held in Roxana. He also reiterated the benefit of Council's attendance at NACo's Annual

**(Con't.) Conference and its many workshops and committees; he specifically mentioned an immigration reform taskforce.**

**Mr. Burton commented that he will not be able to attend the afternoon session of today's Council meeting.**

**M 434 18 At 11:34 a.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to Go Into recess the Regular Session and go into Executive Session for the purpose of Executive discussing matters relating to land acquisition. Session**

**Motion Adopted: 5 Yeas.**

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

**Executive At 11:40 a.m., an Executive Session of the Sussex County Council was held Session in the Basement Caucus Room for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 12:30 p.m.**

**M 435 18 At 12:34 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to Reconvene come out of Executive Session and to reconvene the Regular Session. Regular Session**

**Motion Adopted: 3 Yeas; 2 Absent**

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

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

**M 436 18 At 12:35 p.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to Recess recess until 1:30 p.m.**

**Motion Adopted: 3 Yeas; 2 Absent.**

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

**M 437 18 At 1:35 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Reconvene reconvene.**

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

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

**Rules**

**Mr. Moore read the rules of procedure for zoning hearings.**

**Public  
Hearing/  
C/U 2132  
Dorothy  
Darley**

**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 HAIR STUDIO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.504 ACRE, MORE OR LESS” (Conditional Use No. 2132) filed on behalf of Dorothy Darley (Tax I.D. No. 335-12.06-58.00) (911 Address: 33995 Clay Road, Lewes).**

**The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2018, at which time the Commission recommended approval with conditions.**

**(See the minutes of the Planning and Zoning Commission dated June 14, 2018.)**

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

**An Exhibit Booklet provided by the Applicant was previously distributed to Council.**

**The Council found that David Hutt, Attorney for RKJ Properties, LLC (owners of the property), and the applicant, Dorothy Darley, were present on behalf of the application.**

**Mr. Hutt discussed the proposed use and location of the property. He reminded Council that they gave approval for an identical application in April 2017 for a yoga studio on the same parcel; in that particular case, the proprietor moved out of state. The tax map shows that the property is situated in an area that is zoned AR-1 and there are also B-1 and C-1 zonings in the area. Mr. Hutt made note of the other businesses located in the area; the property is within the County’s environmentally sensitive development district overlay zone; the property is an Investment Level 2; the use is consistent with the Comprehensive Land Use Plan; and a traffic impact study is not required. When the April 2017 application came before Council, Council modified 4 of the conditions for the yoga studio and those 4 revisions have been incorporated into the proposed conditions for the current application.**

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

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

**M 438 18  
Approve  
Ordinance**

**A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2590 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**

(Con't.)  
No. 2590  
C/U 2132

**RESIDENTIAL DISTRICT FOR A HAIR STUDIO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.504 ACRE, MORE OR LESS” (Conditional Use No. 2132) filed on behalf of Dorothy Darley (Tax I.D. No. 335-12.06-58.00) (911 Address: 33995 Clay Road, Lewes), with the following conditions:**

- a. The use shall be limited to the 800-square foot building shown on the plan submitted during the public hearing identified as “Existing One Story Building (Salon)”.
- b. The Applicant shall submit a Final Site Plan showing all entrance and parking areas.
- c. One unlighted sign shall be permitted, it shall not exceed 32 square feet per side.
- d. As stated by the Applicant, the hours of operation shall be between 9:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. through 3:00 p.m. on Saturdays.
- e. Any security lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- f. The applicant shall comply with all DeDOT requirements concerning entrance and roadway improvements.
- g. No parking shall be permitted within the front yard setback.
- h. The Final Site Plan shall show all designated parking areas, and these locations shall also be clearly designated on the site itself.
- i. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

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

**Public  
Hearing/  
C/U 2133**

**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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.3443 ACRE, MORE OR LESS” (Conditional Use No. 2133) filed on behalf of Dr. Laima Anthaney and Dr. Michael Cahoon (Tax I.D. No. 335-8.14-47.00) (911 Address: 1200 Savannah Road, Lewes).**

**The Planning and Zoning Commission held a Public Hearing on this application on June 28, 2018, at which time the Commission recommended approval with conditions.**

**(See the minutes of the Planning and Zoning Commission dated June 28, 2018.)**

**(Con't.) Janelle Cornwell, Director of Planning and Zoning, presented the application.**

**An Exhibit Booklet provided by the Applicant was previously distributed to Council.**

**The Council found that Rachael Bleshman, attorney, and the applicant, Dr. Laima Anthaney, were present on behalf of the application.**

**Ms. Bleshman discussed the proposed use and location of the property. She noted the location is not new to a conditional use and cited Ordinance No. 792, adopted by Council on October 29, 1991, granted Conditional Use No. 985 that allowed a one-story building for the use as dental offices, and has remained unchanged. The applicant has practiced under the conditional use for 27 years using the building as a medical dental office. Due to the retirement of the applicants, they would like to rent the property to a similar business. The conditional use application would expand the use slightly to allow the applicants to rent the building for professional offices. It was noted that the Department of Transportation does not require a traffic impact study. Ms. Bleshman stated that the proposed use fits within the County's Comprehensive Land Use Plan and there are at least 20 conditional uses along Savannah Road; she also discussed requested changes to the 4 conditions that were included in the 1991 conditional use.**

**Ms. Cornwell confirmed that a request for a lighted sign does not include an electronic message center.**

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

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

**M 439 18  
Approve  
Ordinance  
No. 2591/  
CU 2133**

**A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve Ordinance No. 2591 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.3443 ACRE, MORE OR LESS" (Conditional Use No. 2133) filed on behalf of Dr. Laima Anthaney and Dr. Michael Cahoon (Tax I.D. No. 335-8.14-47.00) (911 Address: 1200 Savannah Road, Lewes), with the following conditions:**

- a. The hours of operation shall be between 8:00 a.m. through 6:00 p.m., Monday through Saturday. On Sunday, any business hours shall be between 9:00 a.m. and 4:00 p.m.**
- b. The parking spaces located in the front yard shall only be used by the owners of the business that exist on the premises or their employees.**

- (Con't.)
- c. **One lighted sign shall be permitted. It shall not exceed 32 square feet per side.**
  - d. **Any changes to the site shall require the review and approval of the site plan by the Sussex County Planning and Zoning Commission.**

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

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

**Public  
Hearing/  
CU 2137**

**A Public Hearing was held on 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.5739 ACRE, MORE OR LESS” (Conditional Use No. 2137) filed on behalf of John W. Ford (Tax I.D. No. 335-12.06-50.00) (911 Address: 1530 Savannah Road, Lewes).**

**The Planning and Zoning Commission held a public hearing on July 12, 2018, at which time the Commission deferred action. On July 26, 2018, the Commission recommended approval with the following conditions:**

- A. As stated by the applicant, the use shall occur within the existing structure, expanded to the rear, but maintaining its residential appearance from Savannah Road.**
- B. As stated by the applicant, the hours of operation shall be between 8:00 a.m. and 8:00 p.m. Monday through Saturday. Sunday hours shall be by appointment only.**
- C. Any dumpsters shall be screened from view of neighboring properties and roadways.**
- D. The applicant shall comply with all DelDOT requirements concerning entrance, traffic and roadway improvements.**
- E. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. With the exception of the required handicapped spaces, all parking shall be located in the rear of the property behind the office.**
- G. One lighted sign shall be permitted on the property. The sign shall be no larger than 32 square feet per side.**
- H. There shall be no less than 19 parking spaces located on the site.**
- I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

**(See the minutes of the Planning and Zoning Commission of July 12 and July 26, 2018.)**

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

**(Con't.) An Exhibit Booklet provided by the Applicant was previously distributed to Council.**

**The Council found that Tim Willard, attorney, and the applicant, John Ford, were present on behalf of the application.**

**Mr. Willard discussed the proposed use and location of the property, and noted that the application is consistent with the area. The contents of the Exhibit Booklet were briefly reviewed. The applicant intends to use the space as a realty office and proposes a possible addition to the structure at a later date. Mr. Willard discussed parking and requested that the appropriate condition be changed to reflect code, 'there shall be one parking space per 200 square feet and one parking space per employee'. No traffic impact study is required.**

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

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

**M 440 18  
Amend  
Condition  
H/CU 2137**

**A Motion was made by Mr. Arlett, seconded by Mr. Cole, to amend Condition H for CU 2137 to reflect 'Parking shall be as required by County Code'.**

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

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

**M 441 18  
Approve  
Ordinance  
No. 2592/  
CU 2137**

**A Motion was made by Mr. Arlett, seconded by Mr. Cole, to adopt Ordinance No. 2592 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.5739 ACRE, MORE OR LESS" (Conditional Use No. 2137) filed on behalf of John W. Ford (Tax I.D. No. 335-12.06-50.00) (911 Address: 1530 Savannah Road, Lewes), as amended with the following conditions:**

- A. As stated by the applicant, the use shall occur within the existing structure, expanded to the rear, but maintaining its residential appearance from Savannah Road.**
- B. As stated by the applicant, the hours of operation shall be between 8:00 a.m. and 8:00 p.m. Monday through Saturday. Sunday hours shall be by appointment only.**
- C. Any dumpsters shall be screened from view of neighboring properties and roadways.**

(Con't.)

- D. The applicant shall comply with all DelDOT requirements concerning entrance, traffic and roadway improvements.**
- E. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. With the exception of the required handicapped spaces, all parking shall be located in the rear of the property behind the office.**
- G. One lighted sign shall be permitted on the property. The sign shall be no larger than 32 square feet per side.**
- H. Parking shall be as required by County Code.**
- I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

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

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

**M 442 18  
Adjourn**

**At 2:19 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to adjourn.**

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

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

**Respectfully submitted,**

**Nancy J. Cordrey  
Assistant Clerk of the Council**

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