

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 8, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 8, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
George B. Cole	Vice President
Robert B. Arlett	Councilman
Irwin G. Burton III	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 359 17
Approve
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve the agenda, as posted.

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 25, 2017 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**WILLIAM M. FLEETWOOD, COMMANDANT, MARINE CORPS
LEAGUE, DEVIL DOGS DETACHMENT 780, SEAFORD, DELAWARE.
RE: Letter in appreciation of grant.**

**Public
Comments**

Public Comments

Dan Kramer commented on an item listed on the Council Agenda several weeks ago relating to a FOIA complaint. Mr. Kramer also commented on an item listed on the Council Agenda on this date relating to an Attorney General Opinion.

Al Gratz and Anthony Scarpa commented on the proposed Artesian project west of Milton that will service Allen Harim's poultry processing facility in Harbeson, pumping wastewater from the site through a pipeline which

**Public
Comments
(continued)**

would then be sprayed on crops in the surrounding area. Mr. Gratz discussed environmental concerns and Allen Harim's record of violations. Mr. Scarpa referenced the previous approvals Artesian received for the project (Ordinance Nos. 1922 and 1923), and commented on the expiration of those permits and Artesian's construction of a lagoon and pipeline without approval.

Paul Reiger commented on issues that he believes need to be addressed in ordinances/zoning code, i.e. definitions.

**M 360 17
Approve
Consent
Agenda**

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

Wastewater Agreement No. 694-1, 694-2, 694-3, 694-4, 694-5
Sussex County Project No. 81-04
Seagrove (AKA Harlton) – Phases 2, 3, 4, 5, 6
Millville Expansion of the Bethany Beach Sanitary Sewer District

Wastewater Agreement No. 694-6
Sussex County Project No. 81-04
Seagrove (AKA Harlton) – Pump Station and Force Main – Phase 1B
Millville Expansion of the Bethany Beach Sanitary Sewer District

Motion Adopted: 4 Yeas, 1 Nay.

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

**Proposed
Ellendale
Water
District**

Mr. Lawson and Mr. Hans Medlarz, County Engineer, reported on the Proposed Ellendale Water District. Mr. Lawson noted that, despite media reports, the district is not yet an established district.

Mr. Lawson and Mr. Medlarz reported that the required number of formal petitions have been submitted to proceed with the process of establishing a potential district boundary. He explained the referendum process, the capital funding package, the proposed contract with Artesian Water Company to supply the water and to perform maintenance, water district costs, project schedule, and the proposed water district boundary.

Mr. Lawson reported that the County will host a community meeting on Wednesday, August 16th, at 6:00 p.m. in the Ellendale Fire Hall.

**Attorney
General
Opinion**

Mr. Lawson referenced Attorney General Opinion No. 17-IB28, Reaffirmation of the October 4, 2016 vote related to the position of Planning and Zoning Director. Mr. Lawson explained that this Opinion, dated July 19, 2017 is in reference to an October 4, 2016 Council meeting at which time Council voted after Executive Session to appoint Janelle Cornwell as Director Appointee for Planning and Zoning and, effective upon the

**Attorney
General
Opinion
(continued)**

retirement of Planning and Zoning Director Lawrence Lank, as Planning and Zoning Director; the vote on this matter was 5 Yeas, 0 Nays. Mr. Lawson reported that, according to the Opinion, the Attorney General believes the County violated the FOIA open meeting requirements and stated that the agenda did not include a general statement of all major issues that the County Council expected to discuss at the October 4, 2016 meeting. Mr. Lawson noted that, in accordance with the County's general practice within the agenda creation process, "Personnel" was listed under Executive Session items. To rectify this issue, the Attorney General's Office has recommended that the Council revisit the County's October 4th vote and explain in a public forum its reasons for selecting Ms. Cornwell as Mr. Lank's successor.

**M 361 17
Reaffirm
Vote/
Director of
Planning
and
Zoning**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, that the Sussex County Council reaffirms the October 4, 2016 Council vote for the selection of Ms. Janelle Cornwell as the Planning and Zoning Director Appointee which was effective immediately and as the Sussex County Planning and Zoning Director effective upon Mr. Lawrence Lank's retirement which was official on January 6, 2017.

Motion Adopted: 5 Yeas.

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

The Council members stated reasons for their affirmative votes.

**Adminis-
trator's
Report**

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

1. Certificate of Achievement for Excellence in Financial Reporting

I am pleased to announce that the Government Finance Officers Association of the United States and Canada has awarded Sussex County its Certificate of Achievement for Excellence in Financial Reporting for the 2016 Comprehensive Annual Financial Report (CAFR). This is the 15th consecutive year that the County has received this prestigious award acknowledging the financial report. The award is among the highest forms of recognition for governmental accounting and financial reporting. Congratulations to Gina Jennings, Finance Director/Chief Operating Officer, Kathy Roth, Deputy Finance Director, and the accounting staff for their efforts in achieving this award.

2. FY 2018 Human Service Grant Program

Applications for the Fiscal Year 2018 Human Service Grant Program are now being accepted. The Human Service Grant Program provides grants to county-wide nonprofit agencies for the purpose of

**Administrator's
Report
(continued)**

enhancing health and human services which contribute to a safe, healthy, and self-sufficient community. Funds provide grants that assist organizations with resources in support of programs or capital purchases. To be eligible for a grant, organizations must fill out an application which is available on the County's website at www.sussexcountyde.gov. The deadline for filing grant requests is Friday, September 29th.

3. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for June 2017 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 191 troopers assigned to Sussex County for the month of June.

4. County Council Meeting Schedule

Please note, Council will not meet on Tuesday, August 15th. The next regularly scheduled Council meeting will be held on Tuesday, August 22nd.

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

**Federal
Payment
in Lieu
of Taxes**

Andrea Wall, Accounting Manager, reported that a check in the amount of \$41,324.00 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 2016. 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 362 17
Approve
Distribution/
Federal
Payment
in Lieu
of Taxes**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the Sussex County Council approves the Accounting Department's recommended distribution of the Refuge Revenue Sharing Fund, as follows: Milford School District - \$8,343.96; Cape School District - \$25,613.00; Sussex Technical School District - \$3,130.92; Sussex County - \$3,791.56; and Sussex County libraries - \$444.56.

Motion Adopted: 5 Yeas.

**M 362 17
(continued)**

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

**Agreement
for Waste-
water and
Biosolids
Services/
City of
Rehoboth**

Hans Medlarz, County Engineer, presented a Proposed Agreement for Wastewater and Biosolids Services with the City of Rehoboth Beach. He reported that this proposal is a result of the Engineering Department's goal to diversify the County's transmission, treatment and biosolids options. In July 2016, Council authorized negotiations with other wastewater service providers for the utilization of existing wastewater capacity, ultimately resulting in Council's approval of wastewater and biosolids service agreements with the Lewes Board of Public Works and a bulk wastewater services agreement with Artesian Wastewater Management, Inc.

Mr. Medlarz reported that, currently, the County is operating under two (2) wastewater agreements with the City of Rehoboth Beach (CRB) which were executed in 1983; the Dewey Beach and Henlopen Acres areas of the Sussex County Unified Sanitary Sewer District have been discharging wastewater to the CRB facility since that time. The proposed agreement completely replaces the 1983 individual agreements.

Mr. Medlarz reviewed the terms of the proposed agreement, including project costs and funding.

Mr. Medlarz noted that the Mayor and Commissioners of Rehoboth Beach approved the Agreement on August 7, 2017.

**M 363 17
Approve
Agreement
for Waste-
water and
Biosolids
Services/
City of
Rehoboth**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, Finance Department and Administration, that the Sussex County Council approves the Agreement for Wastewater and Biosolids Services with the City of Rehoboth Beach, as presented.

Motion Adopted: 5 Yeas.

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

**Airport
Electrical
Equipment
Enclosures
Project/
Change
Order &
Substantial
Completion**

Hans Medlarz, County Engineer, presented a Balancing Change Order (Change Order No. 1) for the Airport Electrical Equipment Enclosures Project (Project No. 17-11). This Change Order reduces the contract amount by \$4,066.00 and adjusts the quantities to their final amounts; thereby lowering the total contract amount to \$252,228.00. Mr. Medlarz also reported that the Engineering Department recommends approval of the Change Order and the granting of Substantial Completion for the project as of July 3, 2017.

- M 364 17**
Approve
Change
Order &
Grant
Substantial
Completion/
Airport
Electrical
Equipment
Enclosures
Project
- A Motion was made by Mr. Cole, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that Change Order No. 1 for Contract #17-11, Airport Electrical Equipment Enclosures, be approved, which decreases the contract amount by \$4,066.00 for a new total of \$252,228.00 and that Substantial Completion be granted effective July 3, 2017 and any held retainage be released in accordance with the contract documents.
- Motion Adopted: 4 Yeas, 1 Abstention.
- Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Abstained; Mr. Cole, Yea;
Mr. Vincent, Yea
- King Farm**
Boulevard
Phase I
Project
- Hans Medlarz, County Engineer, presented Change Order Nos. 2 and 3 for the King Farm Industrial Park Boulevard, Phase I. Change Order No. 2 is in the amount of \$3,881.00 and Change Order No. 3 is in the amount of \$8,867.00; these Change Orders increase the contract by \$12,748.00.
- M 365 17**
Approve
Change
Order/
King Farm
Boulevard
Phase I
Project
- A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Change Order Nos. 2 and 3 for Contract #17-15, King Farm Industrial Park Boulevard, Phase I, be approved, which increases the contract amount by \$3,881.00 and \$8,867.00 respectively for a new total of \$337,748.00.
- Motion Adopted: 5 Yeas.
- Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea
- Summer-**
crest
Subdivision/
Release
and
Indemnity
Agreement
- Joe Wright, Assistant County Engineer, presented a request to execute a Release and Indemnity Agreement with the Summercrest Subdivision. In 2012, the Council approved pulling the Letter of Credit for completion of work in the subdivision. Subsequently, a contract was awarded to Jerry's Paving to complete curbing, sidewalk and paving. The initial bond of \$312,500 was used for this purpose along with related costs including engineering, legal and advertising expenses resulting in a balance of \$26,072.41. Mr. Wright reported that David Rutt, Assistant County Attorney, provided the Engineering Department with an opinion that remaining funds be returned to the Summercrest HOA; this opinion is specific to this subdivision based on terms and conditions of a prior Agreement between Sussex County and Summercrest HOA, whereby amenities were also referenced for completion. The HOA has incurred expenses completing and/or maintaining amenities to which they will apply the remaining bond proceeds.

**M 366 17
Approve
Release and
Indemnity
Agreement/
Summer-
crest
Subdivision**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the "Release and Indemnity Agreement" between Sussex County and Summercrest Homeowners Association for the release of the remaining security in the amount of \$26,072.11.

Motion Adopted: 5 Yeas.

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

**Western
Sussex
Sewer
Solution/
Matching
Planning
Grant**

John Ashman, Director of Utility Planning, presented a Proposed Resolution for a Wastewater Matching Planning Grant for the Western Sussex Area; a Resolution is required in order for the Engineering Department to apply for the grant from the Delaware Water Infrastructure Advisory Council. Mr. Ashman advised that the Department has been working with the communities of Greenwood, Bridgeville, and Seaford on the possibility of establishing a Western Sussex Sewer District; a study will determine the most cost effective and economical manner in which Sussex County can establish a collection and transmission system, and connect and transmit the effluent from Greenwood and Bridgeville to Seaford for treatment and disposal. Grant funding is based on a 50 percent match with a maximum grant of \$50,000.00.

**M 367 17
Adopt
R 018 17**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Resolution No. R 018 17 entitled "TO SUBMIT A REQUEST FOR A WASTEWATER MATCHING PLANNING GRANT TO THE WATER INFRASTRUCTURE ADVISORY COUNCIL FOR MATCHING FUNDS TO FINANCE A PLANNING STUDY FOR THE WESTERN SUSSEX SEWER SOLUTION".

Motion Adopted: 5 Yeas.

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

**Slaughter
Beach
Planning
Study/
Wastewater
Matching
Planning
Grant**

John Ashman, Director of Utility Planning, presented a Proposed Resolution for a Wastewater Matching Planning Grant for the Slaughter Beach Area; a Resolution is required in order for the Engineering Department to apply for the grant from the Delaware Water Infrastructure Advisory Council. Mr. Ashman advised that the Engineering Department has received a Resolution from the Town of Slaughter Beach for the County to look into the viability of establishing a Slaughter Beach Water and Sewer District run by the County. Mr. Ashman noted that, at this time, the Department proposes to look at the sewer district first; a study will confirm the size of the drainage basin, and what new projects and what new and existing homes can be served, while also providing a plan on how the

Slaughter Beach (continued) parcels will be served along with estimated costs for the infrastructure to provide that service. Grant funding is based on a 50 percent match with a maximum grant of \$50,000.00.

M 368 17 Adopt R 019 17 A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Resolution No. R 019 17 entitled “TO SUBMIT A REQUEST FOR A WASTEWATER MATCHING PLANNING GRANT TO THE WATER INFRASTRUCTURE ADVISORY COUNCIL FOR MATCHING FUNDS TO FINANCE A PLANNING STUDY FOR PROVIDING CENTRAL SEWER TO SLAUGHTER BEACH”.

Motion Adopted: 5 Yeas.

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

Mount Joy Oak Street Proposed SLD Patti Deptula, Director of Special Projects, reviewed a proposed district boundary for the Mount Joy Oak Street Proposed Sussex County Chapter 95 Streetlighting District. Mrs. Deptula presented the proposed Streetlighting District boundaries. The proposed boundaries encompasses Parcel Nos. 67 through 71; there are 21 tax parcels within the district boundary and 17 assessable improvements. The written request for petitions to form a streetlighting district came from the Mount Joy Civic Association and community members. Mrs. Deptula reviewed the estimated annual costs.

M 369 17 Approve Estimated Billing Rate/ Mount Joy Oak Street Proposed SLD A Motion was made by Mr. Wilson, seconded by Mr. Arlett, that the Sussex County Council, based upon the recommendation of the Engineering Department, approves an estimated annual billing rate of \$65.20 for the first year, and an estimated annual billing rate of \$62.26 after the first year, for each assessable residential or commercial improvement within the boundaries of the Proposed Sussex County Chapter 95 Mount Joy Oak Street Streetlighting District; as required by Chapter 95 of the Sussex County Code, if the Streetlighting District is formed, the annual billing rate will be adjusted each billing year, based upon all streetlighting costs and the actual number of assessable units within the district boundaries.

Motion Adopted: 5 Yeas.

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

M 370 17 Adopt R 020 17 A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to Adopt Resolution No. R 020 17 entitled “A RESOLUTION TO ESTABLISH THE DATE, TIME, AND PLACE OF AN ELECTION TO BE HELD TO CONSIDER THE QUESTION OF ESTABLISHING THE PROPOSED MOUNT JOY OAK STREET STREETLIGHTING DISTRICT”.

**M 370 17
(continued)**

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 2071**

Under Old Business, the Council considered the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMPOSTING, INCLUDING POULTRY BY-PRODUCTS; GREENHOUSES; MIXING, BLENDING AND BAGGING COMPOST AND POTTING SOIL PRODUCTS; TRUCKING PRODUCTS; ALL WHOLESALE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 31.9478 ACRES, MORE OR LESS” (Conditional Use No. 2071) filed on behalf of Blessing Greenhouses and Compost (Tax I.D. No. 334-6.00-496.00-497.00) (911 Address: 18200 Coastal Highway).

The Planning and Zoning Commission held a Public Hearing on this application on March 23, 2017 at which time the Commission deferred action for additional information from DNREC and the Sussex Conservation District. On April 6, 2017, the Commission acknowledged the receipt of a response from DNREC and the Sussex Conservation District; action was deferred again. On April 20, 2017, the Commission deferred action again. On May 11, 2017, the Commission recommended approval with the following conditions:

- A. The Applicant shall comply with all requirements established by DNREC and any other regulatory agency having jurisdiction over this use. Failure to comply with DNREC or other agency requirements shall result in the termination of this Conditional Use.**
- B. No new, uncomposted materials (other than what is necessary to complete the composting process for materials existing on the site) shall be accepted at the site until the areas of the concrete pre-composting pad are cleared of the materials that currently exist there as required in the fourth and fifth bullet items of DNREC’s March 31, 2017 letter to Jennifer Walls, Sussex County Planning and Zoning Manager. The removal of these materials must be underway immediately upon the adoption of the ordinance approving this Conditional Use by County Council, with inspections by Sussex County and DNREC occurring every 3 months to review and report on the status of this work. The quarterly inspections shall include consideration of whether the Applicant is actively cleaning up the site and improved odors coming from it as stated by the Applicant during the public hearing on this application and whether the overall effects of this use upon the neighboring area (including smells) are generally improving. If the Commission finds that any of these requirements are not being satisfied, it may terminate this Conditional Use for non-compliance or require further review of it, including a public hearing.**

Old
Business/
CU 2071
(continued)

- C. Once the current materials are removed, pre-compost storage shall only occur on the existing concrete slab, subject to DNREC's inspections of that slab as existing compost material is removed from it.
- D. The Applicant shall comply with all Sussex Conservation District requirements for the site. Failure to comply with any of these requirements shall result in the termination of the use.
- E. Material processing hours, including the use of heavy equipment, will be limited to 7:00 a.m. - 7:00 p.m., Monday through Saturday.
- F. Material acceptance hours will be limited to 7:00 a.m. – 4:00 p.m., Monday through Saturday.
- G. As proposed by the Applicant, there shall be a landscaped buffer of at least 25 feet around the entire property, to be increased if required by other agencies. This buffer shall include a vegetated berm of at least 8 feet in height. A landscape plan showing the landscaping within the proposed buffer shall be shown on the Final Site Plan.
- H. All new composting shall only occur within new covered concrete-floored composting buildings designed to hold at least 4,000 cubic yards of compost at a time.
- I. A water truck shall be available to control dust within the site.
- J. Once the pre-compost pad is cleared of materials as required by Conditions B and C, this Conditional Use shall be inspected at least annually by DNREC and a County Inspector, with a report from both provided to the Commission. These inspections shall include consideration of whether the Applicant has actively cleaned up the site and improved the odors coming from it as stated by the Applicant during the public hearing on this application; whether the Applicant is in compliance with the conditions of this approval (including all DNREC and Sussex Conservation District (SCD) requirements); and whether the overall effects of this use upon the neighboring area (including smells) are generally improving. If the Commission finds that any of these requirements are not being satisfied, it may terminate this Conditional Use for noncompliance or require further review of it, including a public hearing.
- K. No sanitary waste shall be accepted at the site.
- L. The Applicant may bag and blend materials properly accepted and composted at the site pursuant to this approval.
- M. County Council should consider whether a bond or other performance guarantee is necessary and appropriate to guarantee the cleanup of the site and the performance of these conditions of approval.
- N. The Final Site Plan including all buildings, buffers, a landscaping plan (with types, heights and/or diameter of plantings shown), and stormwater management facilities shall be subject to the review and approval of the Planning and Zoning Commission.

(See the minutes of the Planning and Zoning Commission dated March 23, April 6, April 20, and May 11, 2017.)

**Old
Business/
CU 2071
(continued)**

Janelle Cornwell, Director of Planning and Zoning, reported that the County Council held a Public Hearing on this application on April 25, 2017 at which time the record remained open for 15 days for additional public comment, in writing only, until the close of business on May 10th; thereafter, the record remained open for an additional 15 days for written comment only from either side on information submitted during the first 15-day period, until the close of business on May 25; thereafter, the record remained open for an additional 15 days for Council to ask questions of staff or agencies, until the close of business on June 9th. Ms. Cornwell reported that information received was included in Council packets, outlining questions asked by Council and responses received from the different organizations and agencies.

**M 371 17
Adopt
Proposed
Ordinance/
CU 2071**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMPOSTING, INCLUDING POULTRY BY-PRODUCTS; GREENHOUSES; MIXING, BLENDING AND BAGGING COMPOST AND POTTING SOIL PRODUCTS; TRUCKING PRODUCTS; ALL WHOLESALE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 31.9478 ACRES, MORE OR LESS" (Conditional Use No. 2071) filed on behalf of Blessing Greenhouses and Compost.

Mr. Burton stated that he would like to make amendments to the conditions of approval as recommended by the Planning and Zoning Commission.

**M 372 17
Amend
Conditions/
CU 2071**

A Motion was made by Mr. Burton, seconded by Mr. Arlett, to delete Condition J as proposed by the Planning and Zoning Commission and insert a new Condition J in its place as follows:

Once the pre-compost pad is cleared of materials as required by Conditions B and C, this Conditional Use shall be inspected at least annually by DNREC and a County Inspector, with a report from both provided to the Commission. These inspections shall include consideration of whether the Applicant has actively cleaned up the site and improved the odors coming from it as stated by the Applicant during the public hearing on this application; whether the Applicant is in compliance with the conditions of this approval (including all DNREC and Sussex Conservation District (SCD) requirements); and whether the overall effects of this use upon the neighboring area (including smells) are generally improving. Once the pre-compost pad is cleared of said materials, Applicant shall be prohibited from using the pad for composting purposes. Applicant shall only be permitted to use the pad for purposes incidental to its composting business, such as parking, firewood storage and other minor non-composting uses. If the Commission finds that any of these requirements are not being satisfied, it may terminate this Conditional Use for noncompliance or

M 372 17 **require further review of it, including a public hearing.**

Amend

Conditions/ **Motion Adopted: 5 Yeas.**

CU 2071

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

M 373 17 **A Motion was made by Mr. Burton, seconded by Mr. Arlett, to delete**
Amend **Condition M as proposed by the Planning and Zoning Commission and**
Conditions/ **insert a new Condition M in its place, as follows:**

CU 2071

(continued) **If this property has not been remediated in accordance with DNREC requirements at least four (4) months from the date of this approval, Applicant shall be required to: 1) obtain a performance bond for the benefit of the County in the amount of One Million Dollars (\$1,000,000.00) to remediate this property in accordance with DNREC requirements within one (1) year of the date of this Conditional Use approval; and 2) execute any and all documents necessary to allow the County to utilize the funds under the performance bond and any and all agreements, permits, and documents necessary to complete the remediation of the property in accordance with the DNREC requirements, including but not limited to an agreement that allows the County to access the property and perform this work. The performance bond and all necessary contracts and documents shall be in place no later than four (4) months and one (1) day from the date of this approval and shall be signed by Applicant and all landowners.**

Motion Adopted: 5 Yeas.

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

M 374 17 **A Motion was made by Mr. Burton, seconded by Mr. Arlett, to move**
Amend **Condition N as proposed by the Planning and Zoning Commission to the**
Conditions/ **end of the Conditions and re-label it Condition O.**

CU 2071

Motion Adopted: 5 Yeas.

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

M 375 17 **A Motion was made by Mr. Burton, seconded by Mr. Cole, to insert a new**
Amend **Condition N as follows:**

Conditions/

CU 2071

If Applicant applies any compost to agricultural land, that application shall fully comply with all DNREC regulations including but not limited to disking, or other incorporation of, the compost into the soil to prevent odors

M 375 17 **from emanating from the application site.**

Amend

Conditions/ **Motion Adopted: 5 Yeas.**

CU 2071

(continued)

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

M 376 17

Amend

Conditions/

CU 2071

A Motion was made by Mr. Burton, seconded by Mr. Cole, to insert a new Condition P, as follows:

Failure to comply with any condition contained herein shall invalidate the Conditional Use.

Motion Adopted: 5 Yeas.

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

It was requested that Council receive compliance reports/updates in addition to the Planning and Zoning Commission.

M 377 17

Adopt

Ordinance

No. 2514/

CU 2071

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2514 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMPOSTING, INCLUDING POULTRY BY-PRODUCTS; GREENHOUSES; MIXING, BLENDING AND BAGGING COMPOST AND POTTING SOIL PRODUCTS; TRUCKING PRODUCTS; ALL WHOLESALE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 31.9478 ACRES, MORE OR LESS” (Conditional Use No. 2071) filed on behalf of Blessing Greenhouses and Compost, with the following conditions, as amended:

- A. The Applicant shall comply with all requirements established by DNREC and any other regulatory agency having jurisdiction over this use. Failure to comply with DNREC or other agency requirements shall result in the termination of this Conditional Use.**
- B. No new, uncomposted materials (other than what is necessary to complete the composting process for materials existing on the site) shall be accepted at the site until the areas of the concrete pre-composting pad are cleared of the materials that currently exist there as required in the fourth and fifth bullet items of DNREC’s March 31, 2017 letter to Jennifer Walls, Sussex County Planning and Zoning Manager. The removal of these materials must be underway immediately upon the adoption of the ordinance approving this Conditional Use by County Council, with inspections by Sussex County and DNREC occurring every 3 months to review and report on the status of this work. The**

**M 377 17
Adopt
Ordinance
No. 2514/
CU 2071
(continued)**

- quarterly inspections shall include consideration of whether the Applicant is actively cleaning up the site and improved odors coming from it as stated by the Applicant during the public hearing on this application and whether the overall effects of this use upon the neighboring area (including smells) are generally improving. If the Commission finds that any of these requirements are not being satisfied, it may terminate this Conditional Use for non-compliance or require further review of it, including a public hearing.
- C. Once the current materials are removed, pre-compost storage shall only occur on the existing concrete slab, subject to DNREC's inspections of that slab as existing compost material is removed from it.**
 - D. The Applicant shall comply with all Sussex Conservation District requirements for the site. Failure to comply with any of these requirements shall result in the termination of the use.**
 - E. Material processing hours, including the use of heavy equipment, will be limited to 7:00 a.m. - 7:00 p.m., Monday through Saturday.**
 - F. Material acceptance hours will be limited to 7:00 a.m. – 4:00 p.m., Monday through Saturday.**
 - G. As proposed by the Applicant, there shall be a landscaped buffer of at least 25 feet around the entire property, to be increased if required by other agencies. This buffer shall include a vegetated berm of at least 8 feet in height. A landscape plan showing the landscaping within the proposed buffer shall be shown on the Final Site Plan.**
 - H. All new composting shall only occur within new covered concrete-floored composting buildings designed to hold at least 4,000 cubic yards of compost at a time.**
 - I. A water truck shall be available to control dust within the site.**
 - J. Once the pre-compost pad is cleared of materials as required by Conditions B and C, this Conditional Use shall be inspected at least annually by DNREC and a County Inspector, with a report from both provided to the Commission. These inspections shall include consideration of whether the Applicant has actively cleaned up the site and improved the odors coming from it as stated by the Applicant during the public hearing on this application; whether the Applicant is in compliance with the conditions of this approval (including all DNREC and Sussex Conservation District (SCD) requirements); and whether the overall effects of this use upon the neighboring area (including smells) are generally improving. Once the pre-compost pad is cleared of said materials, Applicant shall be prohibited from using the pad for composting purposes. Applicant shall only be permitted to use the pad for purposes incidental to its composting business, such as parking, firewood storage and other minor non-composting uses. If the Commission finds that any of these requirements are not being satisfied, it may terminate this Conditional Use for noncompliance or require further review of it, including a public hearing.**
 - K. No sanitary waste shall be accepted at the site.**
 - L. The Applicant may bag and blend materials properly accepted and composted at the site pursuant to this approval.**

**M 377 17
Adopt
Ordinance
No. 2514/
CU 2071
(continued)**

- M. If this property has not been remediated in accordance with DNREC requirements at least four (4) months from the date of this approval, Applicant shall be required to: 1) obtain a performance bond for the benefit of the County in the amount of One Million Dollars (\$1,000,000.00) to remediate this property in accordance with DNREC requirements within one (1) year of the date of this Conditional Use approval; and 2) execute any and all documents necessary to allow the County to utilize the funds under the performance bond and any and all agreements, permits, and documents necessary to complete the remediation of the property in accordance with the DNREC requirements, including but not limited to an agreement that allows the County to access the property and perform this work. The performance bond and all necessary contracts and documents shall be in place no later than four (4) months and one (1) day from the date of this approval and shall be signed by Applicant and all landowners.**
- N. If Applicant applies any compost to agricultural land, that application shall fully comply with all DNREC regulations including but not limited to disking, or other incorporation of, the compost into the soil to prevent odors from emanating from the application site.**
- O. The Final Site Plan including all buildings, buffers, a landscaping plan (with types, heights and/or diameter of plantings shown) and stormwater management facilities shall be subject to the review and approval of the Planning and Zoning Commission.**
- P. Failure to comply with any condition contained herein shall invalidate this Conditional Use.**

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 2074**

Under Old Business, the Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL USE AS A THERAPY AND FITNESS CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.113 ACRES, MORE OR LESS” (Conditional Use No. 2074) filed on behalf of Quail Valley 1525, LLC (Tax I.D. No. 335-12.06-1.00) (911 Address: 1523 Savannah Road, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on April 6, 2017 at which time action was deferred; on May 11, 2017, the Commission recommended that the application be approved with the following conditions:

- a. The project shall be served by a central sewer system in accordance with the Sussex County Engineering Department specifications and in**

**Old
Business/
CU 2074
(continued)**

- conformity with all DNREC regulations as part of the Sussex County West Rehoboth Expansion of the Dewey Beach Sanitary Sewer System.
- b. The project shall be served by a publicly regulated central water system providing drinking water and fire protection as required by applicable regulations through Tidewater Utilities, Inc.
 - c. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements including the requirements of the Sussex Conservation District and the Inland Bays Pollution Control Strategy. The Applicant, its successors and assigns, shall operate the stormwater management facilities using Best Management Practices and Best Available Technologies.
 - d. All entrances, intersections, roadway improvements, and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT.
 - e. A landscape buffer of Leyland Cypress or similar vegetation shall be maintained or planted along the boundaries of the project adjacent to any residential properties so that the facility will be screened from view from any residential properties. The landscape buffer must be located on the project site. Final Site Plan shall contain a landscape plan showing the planned vegetation within this buffer area.
 - f. An 8 foot tall fence shall be constructed along the boundaries of the project adjacent to any residential properties.
 - g. The proposed therapy and fitness center shall be set back at least 40 feet from all property lines.
 - h. The number of parking spaces required for this proposed project is clearly excessive and unreasonable. Accordingly, the number of parking spaces required shall be modified and reduced. The proposed project shall have 200 parking spaces. All vehicle parking areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself.
 - i. Any security lighting shall be low-level lighting on a timer and downward screened so that it does not shine onto neighboring properties or roadways.
 - j. Hours of operation shall be between 5:00 a.m. and 9:00 p.m., Monday through Friday and between 5:00 a.m. and 5:00 p.m. Saturday and Sunday.
 - k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

(See the minutes of the Planning and Zoning Commission dated April 6 and May 11, 2017.)

The Council held a Public Hearing on this application on May 23, 2017 at which time the public record was left open and thereafter closed on June 20, 2017. On July 25, 2017, Ms. Cornwell reported that the public comments received were submitted to the members of the Council. Additionally, Council asked staff to provide information on the square footage of

**Old Business/
CU 2074
(continued)** buildings in and around the area and staff also provided that information in the Council packet for the July 25, 2017 meeting.

Mr. Moore reported on: (1) a letter received from Glenn Mandalas, Esq., the Applicant's Attorney, dated August 1, 2017 and (2) the three plans submitted by the Applicant.

**M 378 17
Adopt
Proposed
Ordinance

DENIED** A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL USE AS A THERAPY AND FITNESS CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.113 ACRES, MORE OR LESS" (Conditional Use No. 2074) filed on behalf of Quail Valley 1525, LLC.

Mr. Burton stated a list of reasons (1 through 11) for denying the application.

Motion Denied: 4 Nays, 1 Yea.

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

**Old Business/
CU 2083** Under Old Business, the Council considered the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE, STORAGE BUILDING, STORAGE YARD AND CRUSHING OF CONCRETE FOR A CONTRACTING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.97 ACRES, MORE OR LESS" (Conditional Use No. 2083) filed on behalf of Richard H. Bell III (Tax I.D. No. 135-15.00-79.03) (911 Address: 22592 Lewes-Georgetown Highway, Georgetown).

The Planning and Zoning Commission held a Public Hearing on this application on June 22, 2017. On July 13, 2017, the Commission recommended approval with the following conditions:

- a. The recycling and crushing use shall be limited to concrete and the steel that is encased. No other wood or metal chipping or grinding shall occur and no other materials shall be accepted at the site for crushing or recycling.
- b. Crushing operations shall only occur between the hours of 9:00 a.m. through 4:00 p.m. Monday through Friday. In addition, the operator shall cooperate with Sports at the Beach so that crushing operations do not unreasonably interfere with events occurring there.

Old
Business/
CU 2083
(continued)

- c. Materials may be accepted for the crushing and recycling operation between 7:00 a.m. and 5:00 p.m. Monday through Friday.
- d. Landscaping shall be installed to screen the use from adjacent residential dwellings. The landscaping shall be shown on the Final Site Plan.
- e. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- f. Water shall be available at all times to control dust within the site.
- g. One lighted sign shall be permitted. It shall not be greater than 32 square foot per side.
- h. The Applicant shall comply with all roadway and entrance improvements required by DelDOT.
- i. The Applicant shall not advertise or display products within the front yard area except in the form of landscaping beds and planters.
- j. There shall be no parking within the front yard setback.
- k. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

(See the minutes of the Planning and Zoning Commission dated June 22 and July 13, 2017.)

The County Council held a Public Hearing on July 25, 2017 at which time action was deferred.

M 379 17
Adopt
Proposed
Ordinance/
CU 2083

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE, STORAGE BUILDING, STORAGE YARD AND CRUSHING OF CONCRETE FOR A CONTRACTING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.97 ACRES, MORE OR LESS" (Conditional Use No. 2083) filed on behalf of Richard H. Bell III.

Mr. Burton stated that he would like to make amendments to the conditions of approval as recommended by the Planning and Zoning Commission.

M 380 17
Amend
Conditions/
CU 2083

A Motion was made by Mr. Burton, seconded by Mr. Cole, to delete Condition A as proposed by the Planning and Zoning Commission and insert a new Condition A in its place as follows:

All uncrushed/pre-crushed concrete currently located on the site shall be removed and the site cleaned up of all existing uncrushed/pre-crushed concrete within 45 days. No other concrete shall be accepted on the site for crushing. Concrete currently existing on the site may be crushed on-site during this 45-day period. Upon the expiration of the 45-day period, all further crushing shall cease. No other wood or metal chipping or grinding shall occur and no other materials, including concrete, wood and metal, shall be accepted at the site for crushing or recycling.

**M 380 17
(continued)**

Motion Adopted: 4 Yeas, 1 Nay.

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

**M 381 17
Amend
Conditions/
CU 2083**

A Motion was made by Mr. Burton, seconded by Mr. Arlett, to delete Condition B as proposed by the Planning and Zoning Commission and to insert a new Condition B in its place as follows:

During the initial 45-day period only, crushing operations shall only occur between the hours of 9:00 a.m. through 4:00 p.m. Monday through Friday. Crushing operations shall be prohibited after the expiration of the initial 45-day period. In addition, the operator shall cooperate with Sports at the Beach so that crushing operations do not unreasonably interfere with events occurring there.

Motion Adopted: 5 Yeas.

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

**M 382 17
Amend
Conditions/
CU 2083**

A Motion was made by Mr. Burton, seconded by Mr. Cole, to delete Condition C as proposed by the Planning and Zoning Commission and insert a new Condition C in its place as follows:

Applicant shall be permitted to store crushed concrete in a 40' x 100' area which shall be shown on the Final Site Plan; overall height not to exceed 30 feet.

Motion Adopted: 5 Yeas.

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

**M 383 17
Amend
Conditions/
CU 2083**

A Motion was made by Mr. Burton, seconded by Mr. Cole, to delete Condition D as proposed by the Planning and Zoning Commission and to insert a new Condition D in its place as follows:

Landscaping or solid fencing shall be installed such that all concrete, stone and/or pool or other equipment storage shall be completely screened from adjacent residential dwellings and public view. The landscaping or solid fencing shall be shown on the Final Site Plan.

Motion Adopted: 5 Yeas.

M 383 17
(continued)

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

M 384 17
Amend
Conditions/
CU 2083

A Motion was made by Mr. Burton, seconded by Mr. Cole, to delete Condition H as proposed by the Planning and Zoning Commission and to insert a new Condition H in its place, as follows:

The Applicant shall comply with all roadway and entrance improvements required by DelDOT. The site's entrance shall be approved by DelDOT as a commercial entrance.

Motion Adopted: 5 Years.

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

M 385 17
Amend
Conditions/
CU 2083

A Motion was made by Mr. Burton, seconded by Mr. Cole, to delete Condition K as proposed by the Planning and Zoning Commission and to insert a new Condition K in its place as follows:

The location of all storage areas, including crushed concrete, stone and pool storage, shall be designated and shown on the Final Site Plan.

Motion Adopted: 5 Years.

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

M 386 17
Amend
Conditions/
CU 2083

A Motion was made by Mr. Burton, seconded by Mr. Cole, to insert a new Condition L, as follows:

Failure to comply with any condition herein shall invalidate the Conditional Use.

Motion Adopted: 5 Yeas.

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

M 387 17
Amend
Conditions/
CU 2083

A Motion was made by Mr. Burton, seconded by Mr. Cole, to insert a new Condition M, as follows:

The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

**M 387 17
(continued)**

Motion Adopted: 5 Yeas.

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

**M 388 17
Adopt
Ordinance
No. 2515/
CU 2083**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2515 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE, STORAGE BUILDING, STORAGE YARD AND CRUSHING OF CONCRETE FOR A CONTRACTING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.97 ACRES, MORE OR LESS” (Conditional Use No. 2083) filed on behalf of Richard H. Bell III, with the following conditions, as amended:

- A. All uncrushed/pre-crushed concrete currently located on the site shall be removed and the site cleaned up of all existing uncrushed/pre-crushed concrete within 45 days. No other concrete shall be accepted on the site for crushing. Concrete currently existing on the site may be crushed on-site during this 45-day period. Upon the expiration of the 45-day period, all further crushing shall cease. No other wood or metal chipping or grinding shall occur and no other materials, including concrete, wood and metal, shall be accepted at the site for crushing or recycling.**
- B. During the initial 45-day period only, crushing operations shall only occur between the hours of 9:00 a.m. through 4:00 p.m. Monday through Friday. Crushing operations shall be prohibited after the expiration of the initial 45-day period. In addition, the operator shall cooperate with Sports at the Beach so that crushing operations do not unreasonably interfere with events occurring there.**
- C. Applicant shall be permitted to store crushed concrete in a 40' x 100' area which shall be shown on the Final Site Plan. The overall height shall not exceed thirty (30) feet.**
- D. Landscaping or solid fencing shall be installed such that all concrete, stone and/or pool or other equipment storage shall be completely screened from adjacent residential dwellings and public view. The landscaping or solid fencing shall be shown on the Final Site Plan.**
- E. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. Water shall be available at all times to control dust within the site.**
- G. One lighted sign shall be permitted. It shall not be greater than 32 square feet per side.**
- H. The Applicant shall comply with all roadway and entrance improvements required by DelDOT. The site's entrance shall be approved by DelDOT as a commercial entrance.**
- I. The Applicant shall not advertise or display products within the front yard area except in the form of landscaping beds and planters.**

**M 388 17
Adopt
Ordinance
No. 2515/
CU 2083
(continued)**

- J. There shall be no parking within the front yard setback.**
- K. The location of all storage areas, including crushed concrete, stone and pool storage, shall be designated and shown on the Final Site Plan.**
- L. Failure to comply with any condition contained herein shall invalidate the Conditional Use.**
- M. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. 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 389 17
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$1,000.00 (\$500.00 each from Mr. Burton's and Mr. Wilson's Councilmanic Grant Accounts) to the Chamber of Commerce for Greater Milford for the Riverwalk Freedom Festival.

Motion Adopted: 5 Yeas.

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

**M 390 17
County-
wide
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to give \$1,500.00 from Countywide Youth Grants to Coastal Concerts for the student scholarship fund.

Motion Adopted: 5 Yeas.

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

**M 391 17
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to give \$5,000.00 (\$2,500.00 each from Mr. Wilson's and Mr. Arlett's Councilmanic Grant Accounts) to the Millsboro Historical Society for restoration and maintenance of the Godwin School.

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinances**

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS WITH OUTDOOR STORAGE AND A RETAIL GARDEN CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK AND BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 39.004 ACRES, MORE OR LESS” (Conditional Use No. 2108) filed on behalf of Bella Terra, LLC (Tax I.D. No. 230-27.00-70.00) (911 Address: 13482 Spicer Road, Ellendale).

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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 2.85 ACRES, MORE OR LESS” (Change of Zone No. 1838) filed on behalf of Two Farms, Inc. (Tax I.D. No. 135-11.00-78.00) (911 Address: 24616 Lewes-Georgetown Highway, Georgetown).

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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS” (Change of Zone No. 1839) filed on behalf of Dale Lomas/Seashore Highway Associates, LLC (Tax I.D. No. 334-4.00-37.04) (911 Address: Not Available).

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 16.211147 ACRES, MORE OR LESS” (Change of Zone No. 1837) filed on behalf of ABC Woodlands, LLC (Tax I.D. No. 234-23.00-273.01, 234-23.00-273.02, and 234-23.00-273.03) (911 Address: Not Available).

**Council
Members’
Comments**

Council Members’ Comments

Mr. Arlett and Mr. Vincent congratulated the Delaware District III Georgetown Senior League softball team, winner of the World Series held in Roxana. Mr. Vincent noted that a parade will be held on Sunday, August 6th, in Georgetown.

**Council
Members'
Comments
(continued)**

Mr. Cole commented on the Artesian proposal on which public comments were made earlier in the meeting and asked Mr. Moore to review this matter to determine the status of the project.

Mr. Cole commented on complaints received regarding a pump station and he noted that the Engineering Department is addressing the matter.

Mr. Arlett thanked Mr. Reiger for his comments on zoning matters.

Mr. Cole commented on the Crabs & Conservation event that will be hosted by the Sussex Conservation District on August 9th.

**M 392 17
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 1:20 p.m.

Motion Adopted: 5 Yeas.

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