

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 18, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 18, 2015, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Robert B. Arlett	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 331 15
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of August 11, 2015 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

PRIMEROS PASOS, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant.

CATHOLIC CHARITIES, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant.

**Public
Comment**

Public Comment

There were no public comments.

**New Salary
Structure**

Mr. Lawson presented for discussion the possibility of grandfathering employees as it pertains to the new pay scale. This topic was discussed during the Public Hearing on the FY16 Budget; at that time, concern was expressed about certain employees (15) who would fall outside of the

New Salary Structure/ Grand-fathering Provision (continued)

maximum pay grades in the new salary structure. Mr. Lawson noted that, since the FY16 Budget did not contain any COLA, and merits were applied to current salaries, the pay structure as endorsed and enacted will have no effect on the 15 employees this budget year. Therefore, the concern is for the employees falling outside of their maximum range in the next budget year. Mr. Lawson noted that, for this reason, Council has a year to address the issue. Mr. Lawson stated that it is his understanding that the Council would want him and the Finance Director to develop the appropriate measure in the FY17 Budget process to codify the Council's direction on this issue.

M 332 15 Exempt Current Employees/ New Salary Structure

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council directs the County Administrator and Finance Director to exempt all current employees with a salary that exceeds the employees' maximum pay grade within the County's new pay plan which was adopted in the Fiscal Year 2016 Budget from being subject to maximum salary caps in future budgets; and, Be It Further Moved to allow any future merit or COLA calculation to be applied to said employees' base pay.

Motion Adopted: 5 Yeas.

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

Administrator's Report

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

1. Delaware State Police Activity Report

Per the attached Delaware State Police activity report for June, there were 154 violent crime arrests with 114 clearances; 1,496 property crimes with 532 clearances; and 24,248 total traffic charges with 16,948 corresponding arrests. Of those traffic arrests, 465 were for DUI. Finally, there were 2,388 total vehicle crashes investigated in June. In total, there were 189 troopers assigned to Sussex County for the month of June.

2. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Subcommittee Meeting

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Conference Planning Subcommittee will meet on Wednesday, August 19th, at 10:30 a.m. at the CHEER Community Center, 20520 Sand Hill Road, in Georgetown. During the meeting, the Committee will continue to discuss planning for their annual conference scheduled for October 21, 2015.

**Adminis-
trator's
Report
(continued)**

3. Sussex County Emergency Operations Center Call Statistics – July 2015

Attached please find the call statistics for the Fire and Ambulance Callboard for July 2015. There were 17,834 total calls handled for the month of July. Of those 9-1-1 calls in July, 82 percent were made from wireless phones.

4. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Swann Cove – Phase 6, effective August 3rd; Lewes Crossing (aka Deep Valley Farm) – Phase 3, effective August 6th; and Bay Forest Club – Phase 4.1, effective August 10th.

5. Council Meeting/Holiday Schedule

A reminder that Council will not meet on August 25th, September 1st, or September 8th. The next regularly scheduled Council meeting will be held on September 15th at 10:00 a.m.

County offices will be closed Monday, September 7th, for the Labor Day holiday.

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

**Public
Hearing/
Proposed
Ordinance/
Moratorium
on Off-
Premises
Signs**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO ESTABLISH A MORATORIUM UPON THE ACCEPTANCE OF SPECIAL USE EXCEPTION APPLICATIONS FOR OFF-PREMISES SIGNS".

This Ordinance establishes a six-month moratorium upon the acceptance of applications for a special use exception for off-premises signs. This moratorium may be extended, modified, or terminated at any time by a majority vote by the Sussex County Council.

The Planning and Zoning Commission held a Public Hearing on this application on August 13, 2015 at which time action was deferred for further consideration by the full Commission. (Only three members of the Planning and Zoning Commission were present on August 13, 2015.)

The Council discussed the Proposed Ordinance and the County's sign ordinance, in general.

Public comments were heard.

**Public Hearing/
Proposed Ordinance/
Moratorium on Off-Premises Signs
(continued)**

Nancy Chernoff of Clear Channel Outdoors commented on digital billboards in the County.

Davit Hutt, Attorney, expressed his objections to the proposed moratorium. Mr. Hutt commented on the detrimental effects that a moratorium would have; commented on how the Council's discussion on bandit signs and LED signs turned into a proposed moratorium on billboards; and referenced the letter written by the Board of Adjustment, dated April 6, 2015, regarding off-premise signs. Mr. Hutt offered his assistance in the process of reviewing the County's sign ordinance.

Lynn Rogers, owner of Rogers Sign Company, expressed his objections to the proposed moratorium. Mr. Rogers commented on the detrimental effects that a moratorium would have on the economy. He also commented on the Highway Administration's and DeDOT's strict regulations on billboards.

Dan Kramer stated that the Public Hearing on this date is a waste of time since the Planning and Zoning Commission has not yet made a recommendation on the Proposed Ordinance.

There were no additional public comments and the Public Hearing was closed.

**M 333 15
Defer Action on Proposed Ordinance/
Moratorium on Off-Premises Signs**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO ESTABLISH A MORATORIUM UPON THE ACCEPTANCE OF SPECIAL USE EXCEPTION APPLICATIONS FOR OFF-PREMISES SIGNS".

Motion Adopted: 5 Yeas.

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

**Report on Receipt of Information/
CZ 1770**

Lawrence Lank, Director of Planning and Zoning, reported on information received regarding Change of Zone No. 1770 filed on behalf of TD Rehoboth, LLC. Mr. Lank stated that, on June 2, 2015, the Council held a public hearing on this application. At the conclusion of the public hearing, Council requested that the record remain open for a period of 30 days for written comments or questions from Council and/or responses from agencies; thereafter, comments received would be presented to the Council after which the record would remain open for a period of 15 days for anyone wishing to respond (in writing) to the comments submitted.

Mr. Lank announced that reports were received from DeDOT and the Department of Agriculture. Comments were also received from Vince Robertson, Assistant County Attorney, in response to questions raised by

**Report on
Receipt of
Information/
CZ 1770
(continued)**

the Council and from Janelle Cornwell, Planning and Zoning Manager, relating to FAA regulations.

It was noted that the public will be given a 15 day period of time, until the close of business on September 2, 2015, to submit written comments pertaining to the information submitted to Council on this date.

**Old
Business/
CZ 1764
to Modify
Conditions
Imposed on
Ordinance
No. 1770**

Under Old Business, the Council discussed Change of Zone No. 1764, "AN ORDINANCE TO MODIFY CONDITION NUMBERS 1, 4, 13, AND 17 IMPOSED ON ORDINANCE NO. 1770 FOR CHANGE OF ZONE NO. 1554, THE APPLICATION OF MARINE FARM, LLC FOR THE COASTAL CLUB, A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY, AND TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, FOR A 13.425 ACRES, MORE OR LESS, PORTION OF THE PROPERTY" (Change of Zone No. 1764) filed on behalf of Coastal Club, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on April 9, 2015 at which time the Commission deferred action. On April 23, 2015, the Commission recommended approval with conditions.

The Sussex County Council held a Public Hearing on this application on May 19, 2015 at which time action was deferred.

**M 334 15
Amend
Conditions
4 and 17A/
Ordinance
No. 1770**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Conditions Nos. 4 and 17A of Ordinance No. 1770 for the following reasons (1 – 6) as stated by the Planning and Zoning Commission in its recommendation for approval on Pages 10 and 11 of its submission to County Council on May 19, 2015:

- 1. The original Application contemplated sewer service via an on-site wastewater treatment and disposal system operated by a private utility.**
- 2. Since the time of approval, the sewer provider has changed so that the Coastal Club development will now be served as part of a Sussex County Sanitary Sewer District. As a result, Condition No. 4 of Ordinance No. 1770 should be modified to state "The development shall be served by central sewer as part of a Sussex County Sewer District."**
- 3. The developer has also proposed revised language for Condition No. 17A regarding the means of providing wastewater treatment and disposal to properties along Jimtown Road now that County sewer service is available. The revisions proposed by the developer have been modified by the Sussex County Engineering Department for conformity**

**M 334 15
Amend
Conditions
4 and 17A/
Ordinance
No. 1770
(continued)**

with its sewer requirements.

4. There must be a timeframe under which the developer is required to connect Jimtown properties to the Sussex County sewer system pursuant to the original Condition No. 17A without cost to those property owners choosing to connect. This must be clarified in the modified Condition No. 17A.
5. No property owner within Jimtown between Beaver Dam Road and the existing bridge at Goslee Creek should be required by Sussex County or the developer to connect to the County sewer system, but sewer is available for connection if they choose or if necessary.
6. Condition No. 17A shall be modified to state as follows, based upon the developer's request and the County Engineering Department's recommendations:

"A. Sewer

At its sole cost and expense, Developer will provide the properties of Jimtown with lateral and gravity connections to a Sussex County Sewer District, whereby capacity is allocated in accordance with the Goslee Creek Planning Study. The Jimtown service area is described as those properties with frontage on Jimtown Road that are located between the existing bridge at Goslee Creek and the intersection of Beaver Dam Road.

At its sole cost and expense, the Developer will complete construction of a sanitary sewer transmission system of sufficient size to convey the Jimtown sewerage through the Coastal Club sanitary sewer system to the Sussex County sewer system within three (3) years of the commencement of construction on the Coastal Club site. Based upon the established date of construction commencement (May 23, 2014), the Developer must complete the Jimtown transmission system by May 22, 2017.

At its sole cost and expense, Developer will engineer and construct a sanitary sewer collection system within Jimtown Road from the bridge to the intersection of Jimtown and Beaver Dam Roads, and connect it to the Coastal Club transmission system. The home, lot or parcel owners will not be responsible for any System Connection Charges (SCC's) if connected to the Central Sewer within three (3) years from the date of substantial completion of the Sewer System. The Developer shall be responsible for paying the SCC for any existing home connecting during the three (3) year period. No home, lot or parcel owners of Jimtown shall be required by Sussex County to hook up to the central sewer unless they choose to do so.

Each resident of Jimtown that chooses to hook up to the Coastal Club sanitary sewer system, with such hookup being solely at the discretion of each individual property owner, will pay the user rates set by Sussex County."

**M 334 15
(continued)**

Motion Adopted: 5 Yeas.

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

**M 335 15
Amend
Condition
No. 17C of
Ordinance
No. 1770**

Mr. Arlett and Mr. Cole requested that the County notify the residents of the timeframe for sewer.

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to amend Condition No. 17C of Ordinance No. 1770 for the following reasons (1 – 6) as stated by the Planning and Zoning Commission in its recommendation for approval on Pages 11 and 12 of its submission to County Council on May 19, 2015:

- 1. Condition No. 17C of the original approval required streetlights, but only “if desired by the residents of Jimtown”.**
- 2. The Applicant, with the assistance of First State Community Action Agency, has sought input from as many people as possible through various forms of outreach, including mailings, meetings, visits, ballots and phone calls. There is no clear consensus that streetlights are not wanted, and many people from Jimtown in attendance at the public hearing stated that they desire to have streetlights installed along Jimtown Road.**
- 3. There is also a significant amount of development occurring along Beaver Dam Road and Robinsonville Road. Many of these developments were not yet approved or in existence in 2005 when the Coastal Club project was first approved. Jimtown Road connects between these two roads, and will continue to see increased traffic as these developments progress. For this reason, requiring the developer to install streetlights along Jimtown Road as proffered by the original developer promotes the health, safety and welfare of the Jimtown Community and traffic safety along Jimtown Road.**
- 4. There was also testimony from the Jimtown Community during the public hearing that streetlights are not necessary every 100 feet as required by Ordinance No. 1770. Instead, as one member of the public stated, it is appropriate for them to be installed on the existing poles along the street.**
- 5. Finally, the original approval required the streetlights to be installed within 1 year of the start of construction of the Coastal Club project, which occurred on May 23, 2014. Since the 1 year deadline will be impossible to make, the Planning and Zoning Commission**

**M 335 15
Amend
Condition
No. 17C of
Ordinance
No. 1770
(continued)**

recommended that it be amended to state 2 years from the start of construction, giving the developer and the residents until May 22, 2016 for the streetlights to be installed.

6. Condition No. 17C of Ordinance No. 1770 shall be modified to state:

“Within two (2) years of the commencement of construction (May 23, 2014), Coastal Club, LLC at its sole cost and expense will provide for the installation of all streetlights required by DelDOT together with streetlights on each telephone pole along Jimtown Road between the existing bridge at Goslee Creek and the intersection with Beaver Dam Road. Additionally, all street light rental or service charges (for these streetlights only) will be borne by Coastal Club, LLC, its successors or assigns.”

[No vote was taken on this Motion.]

**M 336 15
Amend
Motion
M 335 15
Amending
Condition
No. 17C of
Ordinance
No. 1770**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Motion M 335 15 by amending the last sentence of reason 6 to read as follows:

Additionally, all street light rental, service charges, or any other related expenses (for these streetlights only) will be borne by Coastal Club, LLC, its successor or assigns.

Motion Adopted: 5 Yeas.

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

**M 337 15
Amend
Condition
17C of
Ordinance
No. 1770**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to amend Condition No. 17C of Ordinance No. 1770 for the following reasons (1 – 5) as stated by the Planning and Zoning Commission and Reason No. 6 which shall be modified, as amended:

- 1. Condition No. 17C of the original approval required streetlights, but only “if desired by the residents of Jimtown”.**
- 2. The Applicant, with the assistance of First State Community Action Agency, has sought input from as many people as possible through various forms of outreach, including mailings, meetings, visits, ballots and phone calls. There is no clear consensus that streetlights are not wanted, and many people from Jimtown in attendance at the public hearing stated that they desire to have streetlights installed along Jimtown Road.**

**M 337 15
Amend
Condition
17C of
Ordinance
No. 1770
(continued)**

3. **There is also a significant amount of development occurring along Beaver Dam Road and Robinsonville Road. Many of these developments were not yet approved or in existence in 2005 when the Coastal Club project was first approved. Jimtown Road connects between these two roads, and will continue to see increased traffic as these developments progress. For this reason, requiring the developer to install streetlights along Jimtown Road as proffered by the original developer promotes the health, safety and welfare of the Jimtown Community and traffic safety along Jimtown Road.**
4. **There was also testimony from the Jimtown Community during the public hearing that streetlights are not necessary every 100 feet as required by Ordinance No. 1770. Instead, as one member of the public stated, it is appropriate for them to be installed on the existing poles along the street.**
5. **Finally, the original approval required the streetlights to be installed within 1 year of the start of construction of the Coastal Club project, which occurred on May 23, 2014. Since the 1 year deadline will be impossible to make, the Planning and Zoning Commission recommended that it be amended to state 2 years from the start of construction, giving the developer and the residents until May 22, 2016 for the streetlights to be installed.**
6. **Condition No. 17C of Ordinance No. 1770 shall be modified to state:**

“Within two (2) years of the commencement of construction (May 23, 2014), Coastal Club, LLC, at its sole cost and expense, will provide for the installation of all streetlights required by DeDOT together with streetlights on each telephone pole along Jimtown Road between the existing bridge at Goslee Creek and the intersection with Beaver Dam Road. Additionally, all street light rental, service charges, or any other related expenses (for these streetlights only) will be borne by Coastal Club, LLC, its successors or assigns.”

Motion Adopted: 5 Yeas.

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

**M 338 15
Amend
Condition
No. 17D of
Ordinance
No. 1770**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition No. 17D of Ordinance No. 1770 for the following reasons 1 – 9 as stated by the Planning and Zoning Commission in its recommendation for approval on Pages 12 and 13 of its submission to County Council on May 19, 2015:

**M 338 15
Amend
Condition
17D of
Ordinance
No. 1770
(continued)**

- 1. Conditions No. 17D of the original approval required sidewalks but only “if desired by the residents of Jimtown”. It also stated that they should be installed either within the right of way of Jimtown Road or outside of the right of way on Jimtown lots. This requirement was proffered by the original developer of the Coastal Club project.**
- 2. The Applicant, with the assistance of First State Community Action Agency, has sought input about sidewalks from as many people as possible through various forms of outreach, including mailings, meetings, visits, ballots and phone calls. There is no clear consensus that sidewalks are not wanted, and many people from Jimtown in attendance at the public hearing stated that they desire to have sidewalks installed along Jimtown Road.**
- 3. The Applicant has stated its willingness to install sidewalks.**
- 4. It is not reasonable to require easements from property owners for the installation of sidewalks on their properties, especially if there is not 100% agreement about them. Also, many of the homes along Jimtown Road are very close to the right of way and there is very little room in some cases to put in a sidewalk outside of the right of way.**
- 5. There is a significant amount of development occurring along Beaver Dam Road and Robinsonville Road. Many of these developments were not yet approved or in existence in 2005 when the Coastal Club project was first approved. Jimtown Road connects between these two roads, and will continue to see increased traffic as these developments progress. For this reason, requiring the developer to install sidewalks along Jimtown Road promotes the health, safety and welfare of the Jimtown Community.**
- 6. There was also testimony during the public hearing that most of the homes are on the northeast side of Jimtown Road, so if sidewalks are going to be installed on just one side of the road as required by the original Condition No. 17D, it should be on the northeast side of Jimtown Road.**
- 7. The developer must consult with DeIDOT, the Sussex Conservation District and any other agencies that can be of assistance to design and construct the sidewalks within the road right of way on the northeast side of Jimtown Road between the bridge over Goslee Creek and the intersection with Beaver Dam Road.**
- 8. Because construction work will need to occur on Jimtown Road to install the sewer and roadway improvements required by Condition**

**M 338 15
Amend
Condition
17D of
Ordinance
No. 1770
(continued)**

Nos. 17A and 17E, the sidewalks should be installed at the same time as this work is underway. Condition No. 17A requires the sewer to be installed in Jimtown Road within three years of May 23, 2014, so the same timeframe should apply to the sidewalk installation.

- 9. For these reasons and the record made during the public hearing, Condition No. 17D of Ordinance No. 1770 shall be modified to state as follows:**

“Within three (3) years of the commencement of construction (May 23, 2014), Coastal Club, LLC at its sole cost and expense shall provide a sidewalk within the Jimtown Road right of way on the northeast side of Jimtown Road from the existing bridge over Goslee Creek to the intersection of Jimtown Road and Beaver Dam Road in accordance with the approval of DeIDOT and the Sussex Conservation District.”

Motion Adopted: 5 Yeas.

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

**M 339 15
Modify
Condition
No. 1 of
Ordinance
No. 1770**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to amend Condition No. 1 of Ordinance No. 1770 for the following reasons (1 – 2) as stated by the Planning and Zoning Commission in its recommendation for approval on Page 13 of its submission to County Council on May 19, 2015:

- 1. Condition No. 1 concerns the number of units within the development. The original Condition No. 1 stated that “the maximum number of dwelling units shall not exceed 630 of which at least 432 shall be located on single family lots. The 20 lots with roadway connection to Jimtown Road shall also be eliminated.”**
- 2. Although the 20 Jimtown Road single family lots were eliminated, the total number of single family lots in the entire development was not reduced by 20 lots. As a result, the first sentence of Condition #1 should have referenced 412 single family lots instead of 432 so that Condition #1 states as follows:**

“The maximum number of dwelling units shall not exceed 630 of which at least 412 shall be located on single family lots. The 20 lots with roadway connection to Jimtown Road shall be eliminated. The roadway connection to Jimtown Road shall be eliminated.”

Motion Adopted: 5 Yeas.

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

**M 440 15
Approve
Removal
of RPC
Overlay**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Council approves the removal of the Residential Planned Community (RPC) Overlay from 13.4 acres of land that was originally part of Coastal Club RPC (Ordinance No. 1770).

Motion Denied: 5 Nays.

(DENIED)

**Vote by Roll Call: Mrs. Deaver, Nay; Mr. Cole, Nay;
Mr. Arlett, Nay; Mr. Wilson, Nay;
Mr. Vincent, Nay**

**Reasons for
Denial of
M 440 15**

Motion M 440 15 was denied for the following reasons:

- 1. The area of the request to delete the RPC Overlay was originally part of the Coastal Club RPC, and the acreage was used to calculate the overall density of the project.**
- 2. There has been no justification for the removal of the RPC designation, other than the fact that the land is no longer needed for the on-site wastewater treatment facility that was originally proposed for the project. The project is now going to be part of the Sussex County Sanitary Sewer District.**
- 3. The original RPC approval limited density to 1.74 units per acre on all of this land rezoned to MR from AR-1 as part of the application.**
- 4. As stated in the original Findings of Fact for Ordinance No. 1770, it was noted that the RPC kept the density to an appropriate level less than what was permitted under the surrounding AR-1 Zoning. By removing the RPC Overlay, the density could rise to up to 4 units per acre under the MR Zoning. The Planning and Zoning Commission does not believe this possible density would have been approved at the time the Coastal Club application was originally presented and the necessary change in zone to MR was permitted primarily as a result of the RPC Overlay limiting the density of the project.**
- 5. MR zoning without a RPC Overlay allowing up to 4 units per acre is not appropriate in this location.**
- 6. For the foregoing reasons, the Planning and Zoning Commission recommended denial of Applicant's request for removal of Residential Planned Community Overlay from 13.4 acres of land that was originally part of Coastal Club RPC (Ordinance No. 1770) and, therefore, the property should remain subject to the MR/RPC as originally contemplated for the Coastal Club residential project.**

**M 441 15
Amend
Condition
No. 13**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition No. 13 of Ordinance No. 1770, and generally modify Ordinance No. 1770 for the following reasons 1 – 2 as stated by the Planning and Zoning Commission in its recommendation for approval on Pages 14 and 15

**M 441 15
Amend
Condition
No. 13 of
Ordinance
No. 1770
(continued)**

of its submission to County Council on May 19, 2015:

1. Throughout all of Ordinance No. 1770, there is reference to the developer being Marine Farm, LLC. Since that LLC is no longer involved in the project, all references to it should be updated to refer to Coastal Club, LLC.
2. The Applicant has stated that Condition No. 13, regarding the “Eagle Wildlife Habitat Conservation Area” is no longer necessary, as there is not an eagle nest on the property. It is appropriate to modify this condition under the circumstances, but it should still remain as open space. The Planning and Zoning Commission recommend that it be modified to state:

“The former 42-acre “Wildlife Habitat Area” shall remain an open natural area in perpetuity, with uses limited to trails and other passive recreational uses. There shall not be any residences, structures, pool, clubhouses, or similar amenities constructed within this area.”

Motion Adopted: 5 Yeas.

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

**Request
for Re-
statement
of Condi-
tions of
Ordinance
No. 1770**

Mr. Moore reported that the Planning and Zoning Commission requested, as part of the adoption of their recommendations to Council, that Council include a restatement of all of the Conditions of Ordinance No. 1770, as modified, in their entirety, so that there is one document containing all of the current conditions of approval. Mr. Moore advised that his office has prepared this document.

**M 442 15
Adopt
Ordinance
No. 2413**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2413 entitled “AN ORDINANCE TO MODIFY CONDITION NUMBERS 1, 4, 13, AND 17 IMPOSED ON ORDINANCE NO. 1770 FOR CHANGE OF ZONE NO. 1554, THE APPLICATION OF MARINE FARM, LLC FOR THE COASTAL CLUB, A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY, AND TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, FOR A 13.425 ACRES, MORE OR LESS, PORTION OF THE PROPERTY” (Change of Zone No. 1764), as amended.

Motion Adopted: 5 Yeas.

**M 442 15
(continued)**

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

**Notice to
Property
Owners**

A copy of Ordinance No. 1770, as amended, will be sent to the Jimtown property owners as notification of the timeframe/deadlines for each project.

**Pump
Station 23
Modifi-
cations
Project**

Juel Gibbons, Project Engineer, presented the bid results for Contract 14-22, Pump Station 23 Modifications Project. The construction work detailed in the contract consists of modifying an existing wet pit / dry pit pump station to a conventional submersible pump station. Ms. Gibbons reported that seven bids were received and that the low bidder was Hopkins Construction, Inc. of Bridgeville in the amount of \$483,820.00. The Engineer's estimate for the project was \$641,780.00.

**M 443 15
Award
Contract/
Pump
Station 23
Modifi-
cations
Project**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that Contract 14-22, Pump Station 23 Modifications, be awarded to Hopkins Construction, Inc. of Bridgeville, Delaware, at a bid amount of \$483,820.00.

Motion Adopted: 5 Yeas.

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

**Pump
Station 207
and Force
Main
Project**

Juel Gibbons, Project Engineer, presented a Balancing Change Order and request to grant Substantial Completion for Contract 12-23, Pump Station 207 and Force Main. This contract is for the installation of approximately 100 LF of gravity sewer, 9,000 LF of force main, construction of a new pump station building and fencing, addition of odor control, and upgraded electrical and communications systems. On June 3, 2015, the new pump station was placed into operation; thus, the request is that the Council approve June 3 as the date of Substantial Completion. The proposed Balancing Change Order results in a credit to the contract in the amount of \$137,683.21. The original contract amount was \$4,123,810.90; Change Order No. 1 also resulted in a credit to the contract in the amount of \$4,062.10. The final contract amount is \$3,982,065.59.

**M 444 15
Pump
Station 207
and Force
Main
Project/
Approve
Change
Order &
Grant
Substantial
Completion**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Balancing Change Order for Contract No. 12-23, Pump Station 207 and Force Main, be approved, which decreases the contract amount by \$137,683.21 for a new total of \$3,982,065.59 and that Substantial Completion be granted, effective June 3, 2015, and any held retainage be released in accordance with the contract documents.

Motion Adopted: 5 Yeas.

**M 444 15
(continued)**

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

**Route 26
Phase 3
Sewer
Expansion
Project**

Joe Wright, Assistant County Engineer, presented an Agreement for professional services for the Route 26 Phase 3 Sewer Expansion Project. The construction work is part of DelDOT's overall Route 26 improvement project. Mr. Wright reported that the DelDOT project had an original completion date of 900 calendar days starting in January 2014. There is no milestone completion date requirement within that contract that specifies when the Sussex County work had to be completed. The County originally included a Construction Administration and Resident Project Representation Services period of June 2014 through January 2015. Mr. Wright reported that the County's work will be completed prior to the end of DelDOT's project completion; however, there is additional time required through September 2015. The County's contractor is Whitman Requardt & Associates.

**M 445 15
Approve
Agreement/
Route 26
Phase 3
Sewer
Expansion
Project**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Department, that an Agreement for Construction Administration and Resident Project Representation Services on the SR 26 Phase 3 Sewer Expansion Contract, in an amount not to exceed \$75,879.00, be approved, effective August 18, 2015.

Motion Adopted: 5 Yeas.

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

**IBRWF
Phase 2B
Expansion
Project**

Joe Wright, Assistant County Engineer, presented an Agreement for the Inland Bays Regional Wastewater Facility Phase 2B Expansion Contract for Construction Administration and Resident Project Representation Services. The completion date for this project was April 20, 2015; however, the project is not yet completed. The current anticipated completion date is October 1, 2015, which would be approximately 160 calendar days beyond the original completion date. In accordance with contract documents, liquidated damages would be assessed against the contractor for failure to perform on time, in an amount not to exceed \$2,000.00 per day. Mr. Wright stated that it is the County's intent to fully recover the costs presented on this date from the contractor through the liquidated damage process, upon completion of the project.

**M 446 15
Approve
Agreement/
IBRWF
Phase 2B
Expansion
Project**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 1-A for Construction Administration and Resident Project Representation Services on the Inland Bays Regional Wastewater Facility, Phase 2B Contract, in an amount not to exceed \$68,040.00, be approved, effective August 18, 2015.

**M 446 15
(continued)**

Motion Adopted: 5 Yeas.

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

**Pump
Station 210
Improve-
ments/
Bid
Results**

Michael Izzo, County Engineer, presented the bid results for Contract No. 15-07, Pump Station 210 Improvements. Mr. Izzo reported that Pump Station 210 is the main pumping station for the West Rehoboth Sewer District, which pumps directly to the Wolfe Neck Plant. Mr. Izzo stated that the Engineering Department is looking to reduce the flow to the plant and that this proposed improvement will begin redirecting a portion of the flow from Pump Station 210 that would go to Wolfe Neck to the Inland Bays Plant.

Mr. Izzo reported that two bids were received and that the low bidder was Kuhn Construction with a bid amount of \$5,003,700.00, with alternate bid items. The Engineer's estimate was \$4,837,300.00 with alternate bid items. Mr. Izzo commented on the over budget amount when comparing the bid to the Engineer's estimate. Mr. Izzo noted that this is a time-sensitive project; it is anticipated that the improvements would be on-line in the Summer of 2017. Mr. Izzo stated that the Engineering Department recommends awarding the bid to Kuhn Construction.

**M 447 15
Award
Bid for
Pump
Station 210
Improve-
ments**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Sussex County Project No. 15-07, Pump Station 21 Improvements, be awarded to Kuhn Construction Co. of Hockessin, Delaware, at the base bid amount of \$5,003,700.00

Motion Adopted: 5 Yeas.

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

**Grant
Requests**

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

**M 448 15
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to the Seaford Historical Society for the promotion of the Nanticoke Heritage Byway Project.

Motion Adopted: 5 Yeas.

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

**M 449 15
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Rehoboth Summer Children's Theatre for program expenses.

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Zoning
Ordinances**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR SINGLE-FAMILY / CONDOMINIUM UNITS (AGE RESTRICTED) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 23.5079 ACRES, MORE OR LESS" (Conditional Use No. 2029) filed on behalf of Truitt Homestead, LLC (Tax I.D. No. 334-19.00-3.00) (911 Address: None Available).

Mr. Vincent introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR PROPANE AND OIL STORAGE TANKS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.82 ACRES, MORE OR LESS" (Conditional Use No. 2030) filed on behalf of Dean Sherman / Sherman Heating Oil (Tax I.D. No. 331-3.00-164.00) (911 Address: None Available).

Mr. Vincent introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR - 1 AGRICULTURAL RESIDENTIAL DISTRICT FOR USED CAR SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 1.3 ACRES, MORE OR LESS" (Conditional Use No. 2031) filed on behalf of East Coast Auto, Inc. (Tax I.D. No. 531-11.00-40.00) (911 Address: None 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 TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 23.5079 ACRES, MORE OR LESS" (Change of Zone No. 1785) filed on behalf of Truitt Homestead, LLC (Tax Map I.D. No. 334-19.00-3.00) (911 Address: None Available).

Introduction of Proposed Zoning Ordinances (continued)

Mrs. Deaver 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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (Change of Zone No. 1786) filed on behalf of Wilson Baker, Inc. (Tax Map I.D. No. 230-26.00-40.00) (911 Address: None Available).

The Proposed Ordinances will be advertised for Public Hearing.

Council Members’ Comments

Council Members’ Comments

Mrs. Deaver questioned the Council Members’ comment process during Council meetings.

Mr. Arlett commented on various events he attended in the County.

Mr. Arlett also commented on the 2015 Little League Big League Softball World Series games that took place in Sussex County and extended congratulations to all the teams.

**M 450 15
Go Into
Executive
Session**

At 12:07 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Arlett, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to personnel and land acquisition.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 12:08 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing issues relating to personnel and land acquisition. The Executive Session concluded at 12:28 p.m.

**M 451 15
Reconvene
Regular
Session**

At 12:29 p.m., a Motion was made by Mr. Arlett, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 3 Yeas, 2 Absent.

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

Action

Mr. Moore announced that there was no action on Executive Session items.

**M 452 15
Adjourn**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to adjourn at 12:20 p.m.

Motion Adopted: 3 Yeas, 2 Absent.

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

Respectfully submitted,

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