

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 22, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 22, 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 393 17
Approve
Agenda**

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

(Mr. Lawson noted that agenda items listed under Hans Medlarz, County Engineer, would be presented by other staff members.)

Motion Adopted: 4 Yeas, 1 Absent.

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

**Recognition
of the
Georgetown
Senior
League
Softball
Team**

Sussex County Council presented awards recognizing members and coaches of the 2017 District III Senior League World Series softball championship team from Georgetown. The Delaware District III Girls' Softball Team won its first title as World Champions during the Senior League World Series held in Roxana in August. The Delaware District III team of 14 to 16 year old girls won the Senior League World Series title, defeating Asia-Pacific 4-0 during the championship game on August 6th.

Mr. Vincent passed the gavel to Mr. Cole prior to leaving the meeting for the purpose of a group photo with the softball championship team.

**M 394 17
Approve
Minutes**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to approve the minutes of August 8, 2017.

**M 394 17
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Corre-
spondence**

Mr. Moore read the following correspondence:

THE MUSIC SCHOOL OF DELAWARE, MILFORD, DELAWARE.

RE: Letter in appreciation of grant.

AUTISM DELAWARE, LEWES, DELAWARE.

RE: Letter in appreciation of grant.

WEST SIDE NEW BEGINNINGS, REHOBOTH, DELAWARE.

RE: Letter in appreciation of grant.

REHOBOTH ART LEAGUE, REHOBOTH, DELAWARE.

RE: Letter in appreciation of grant.

**Public
Comments**

Public Comments

Paul Reiger commented on the following matters: the agenda item “poultry house regulations”; regulations regarding farms, chickens, etc.; and the Planning and Zoning Commission member for District 2.

Mr. Vincent rejoined the meeting.

Dan Kramer commented on the requirement that County employees clock in. He also commented on and raised questions regarding the agenda item “Western Sussex Area of the Sussex County Unified Sanitary Sewer District”.

William Kinnick discussed a letter he received from the County in April 2017 in response to the White Paper he submitted to the Council and he discussed issues that have arisen since the receipt of the letter, i.e. variances and construction of houses not meeting Code.

Leonard Sears commented on manufactured home communities including grandfathering, single wide homes being replaced with double wide homes, making a new lot out of two lots, setback requirements, and buffer zones.

Philip Greene commented on activities, development, traffic, and vacated houses on Route 24.

**Public
Hearing/
Robin
Salisbury
Annexation**

A Public Hearing was held on extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Miller Creek Area, to include a parcel of land along the south side of Double Bridges Road, being situate in Baltimore Hundred (Robin Salisbury Annexation). The expansion request

**Public
Hearing
(continued)**

was submitted by the owner of the property; the property owner wishes to construct a single-family home at this time with plans of subdividing in the future. The parcel is adjacent to the County's sewer district and the Engineering Department has planned capacity for the parcel. Mr. Ashman reported that the Engineering Department has not received any correspondence in support of or in opposition to the proposed expansion.

**M 395 17
Adopt
R 021 17**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Resolution No. R 021 17 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MILLER CREEK AREA, TO INCLUDE A PARCEL OF LAND (134-19.00-69.00) ALONG THE SOUTH SIDE OF DOUBLE BRIDGES ROAD LOCATED IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE".

Motion Adopted: 5 Yeas.

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

**Consent
Agenda**

Mr. Vincent presented the items listed under the Consent Agenda for Council's consideration.

**M 396 17
Approve
Consent
Agenda**

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

**Wastewater Agreement No. 866-10
Sussex County Project No. 81-04
Lewes Crossing – Phase 7
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**

**Wastewater Agreement No. 516-7
Sussex County Project No. 81-04
Landings at Pepper Creek (aka The Marina at Pepper's Creek – Phase 3-5)
Dagsboro/Frankford Sanitary Sewer District**

**Wastewater Agreement Nos. 1017-1, 1017-2 and 1017-3
Sussex County Project No. 81-04
Showfield – Phases 2 and 2A – Pump Station and Force Main, and Phase 3
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**

Motion Adopted: 5 Yeas.

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

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report

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

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Coastal Club – Land Bay 3 – Phase A-2, effective July 31st; Solitude on Whites Creek – Phase 1B, effective August 8th; and The Estuary – Phase 1C-1B (Construction Record), effective August 15th.

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

**Poultry
House
Zoning
Regulations**

Janelle Cornwell, Director of Planning and Zoning, and Vince Robertson, Assistant County Attorney, discussed poultry house zoning regulations. Ms. Cornwell reported that staff has met with local poultry stakeholders as well as the Delmarva Poultry Industry, Inc. (DPI). Ms. Cornwell presented a summary of the County's current regulations regarding poultry houses and the recommendation of DPI and the DPI White Paper on their Best Management Practices; she noted that this information was provided in Council packets.

Council members raised questions on who was included in the group of stakeholders that met and specifically, whether or not any poultry growers attended. Ms. Cornwell responded that meetings took place with representatives from Mountaire, Allen Harim, Perdue and Delmarva Poultry Industry. Ms. Cornwell stated that the intent was to meet with the companies to receive feedback. She noted that there can be further outreach if and when the process moves forward. It was also noted that there would be public hearings scheduled on a proposed ordinance if the process moves forward.

Mr. Lawson commented on the background of scheduling the meetings stating that public comments have recently been heard by the Council during Council meetings in regard to poultry regulations and that Council directed staff to look into this issue.

Also questioned was how the proposed changes compare to neighboring states/counties. Ms. Cornwell responded that the proposed changes came from Delmarva Poultry Industry and she noted that the stakeholders they met with are amenable to the proposed changes. She noted that the

Poultry House Zoning Regulations (continued) **proposed changes are similar to other counties and possibly more restrictive than in Kent County.**

Other questions raised related to acreage and setbacks required for poultry houses.

Mr. Cole requested that a chart be prepared comparing regulations of other areas on the Eastern Shore. Mr. Robertson stated that a comparison chart has been prepared and that he would forward the chart to the Council members.

Council members discussed poultry house regulations and the impact on farmers and residents that live in the rural areas. Issues discussed included the five acre requirement, concerns of the general public, agriculture versus industrial site, farmers rights and residential rights, and recognizing that poultry is the Number 1 industry in the County.

It was noted that the intent of this matter being placed on the agenda on this date is for comments and feedback from Council for the purpose of preparing a draft ordinance.

AHA's Mission: Lifeline Silver Award **Jeff Cox, EMS Deputy Director of Administration, announced that Sussex County Emergency Medical Services (EMS) in conjunction with Nanticoke Health Services have received national recognition for excellence in cardiac care, being awarded the American Heart Association's Mission: LifeLine Silver Award for implementing quality improvement measures for the treatment of patients who experience severe heart attacks. In attendance were representatives of Sussex County EMS and representatives of Nanticoke Health Services. State Representative Danny Short was also in attendance to testify to the importance of paramedic response and cardiac care and he extended his thanks to Sussex County EMS and Nanticoke Hospital and cardiac staff for the care he received following a recent heart attack.**

Asset Management Program Phase II **John Ashman, Director of Utility Planning, and Meghan Nehrbas, GIS Manager, presented Contract Amendment No. 2 for the Asset Management Program, Phase II, for the County's wastewater facilities. Mr. Ashman explained that Amendment No. 2 to the Contract with KCI Technologies represents the next stages of the Asset Management Program implementation effort. Mr. Ashman stated that, since September 2015, when the Utility Planning Department presented a DNREC-sponsored Asset Management Initiative to Council, the Engineering Department has been working with KCI Technologies and Sussex County's Mapping and Addressing Department to complete the original pilot study area of Fenwick Island and has proceeded into digitizing additional sewer districts into a GIS database. The County has contracted with Salisbury University's Eastern Shore Regional GIS Cooperative and they have completed the digitizing of the County's Auto-Cad As-Builts information. Mr. Ashman reported that the initiative is a 5-year program which identifies all existing**

Asset Management, Phase II (continued)	sewer infrastructure (and eventually water infrastructure). Mr. Ashman and Ms. Nehrbas also presented a request for authorization to continue the cooperation with the Eastern Shore Regional GIS Cooperative utilizing their pool of student interns for this program at a cost not to exceed an additional \$25,000.00.
M 397 17 Approve Contract Amendment/ Asset Management Program	<p>A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Amendment No. 2 to the EJCDC Contract for miscellaneous engineering services with KCI Technologies, Inc. be approved in the amount not to exceed \$123,860.00 for Phase II of the Asset Management Program and authorizes the continued utilization of the Eastern Shore Regional GIS Cooperative in the amount not to exceed \$25,000.00, as presented on August 22, 2017.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
SCRWF/ GHD Base Contract	<p>Joe Wright, Assistant County Engineer, presented an agreement with GHD, Inc. for design services at the South Coastal Regional Wastewater Facility (SCRWF) which will take the facility to a design capacity of 10.00 MGD. (GHD Inc. is formally known as Sterns & Wheler, LLC.)</p>
M 398 17 Approve Base Contract Amendment (SCRWF)	<p>A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Amendment No. 12 to the Base Engineering Contract with GHD, Inc. be approved in an amount not to exceed \$2,240,286.38 for preparation of construction bid documents and bid phase services.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
Western Sussex Area of the SCUSSD	<p>Mr. Lawson presented an overview of the proposal for the Western Sussex Area Expansion of the Unified Sewer District: the Town of Bridgeville currently owns and operates a sanitary sewer system for the Bridgeville/Greenwood service area; due to the high cost of system improvements, the Bridgeville Town Council and the Greenwood Town Council asked Sussex County to investigate an alternate scenario; Sussex County Engineering Department, in conjunction with the respective municipal engineering consultants, developed an alternate scenario for a Western Sussex County Sewer District connecting to the City of Seaford estimated at a project cost of \$12.68 million; Seaford City Council has agreed in principle to the arrangement; once the expansion is approved by Council, the Engineering Department will start working on an agreement</p>

Western Sussex Area of the SCUSSD (continued)	<p>between Sussex County and the City of Seaford; it is proposed that Sussex County would assume all municipal sewer related assets, liabilities and legacy obligations after district expansion.</p> <p>Pat Correll, President of Bridgeville Town Commission, was in attendance and spoke in support of the proposal.</p> <p>Council members discussed the proposal including the request of the two municipalities for sewer service, the support of the municipalities and the residents of Bridgeville and Greenwood, wastewater disposal, the County's role, and the topic of municipal annexation areas / growth areas,</p>
M 399 17 Adopt R 022 17	<p>A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Resolution No. R 022 17 entitled "A RESOLUTION TO ESTABLISH THE WESTERN SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT UNDER THE PROVISIONS OF TITLE 9 OF THE <u>DELAWARE CODE</u>".</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
Grant Requests	<p>Mrs. Jennings presented grant requests for the Council's consideration.</p>
M 400 17 Councilmanic Grant	<p>A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Rehoboth Summer Children's Theatre for program costs.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
M 401 17 Councilmanic Grant	<p>A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$500.00 from Mr. Wilson's Councilmanic Grant Account to Grace-N-Mercy Ministries for summer youth camp costs.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
M 402 17 Councilmanic Grant	<p>A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$1,000.00 from Mr. Cole's Councilmanic Grant Account to the Delaware State College Alumni Association for Delaware State University Marching Band's</p>

**M 402 17
(continued)**

performance in Rehoboth.

Motion Adopted: 5 Yeas.

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

**M 403 17
Council-
manic
Grant**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to give \$2,500.00 (\$500.00 from each Councilmanic Grant Account) to the Nanticoke Indian Association for the 40th Nanticoke Indian Powwow.

Motion Adopted: 5 Yeas.

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

**M 404 17
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to give \$3,500.00 (\$2,500.00 from Mr. Cole's Councilmanic Grant Account and \$1,000.00 from Mr. Burton's Councilmanic Grant Account) to the West Rehoboth Community Land Trust for maintenance and renovations.

Motion Adopted: 5 Yeas.

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

**M 405 17
Grant/
Motion
Died**

A Motion was made by Mr. Wilson to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to La Esperanza for the Sisters Fund.

The Motion died for the lack of a Second.

**M 406 17
Council-
manic
Grant**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to give \$2,500.00 (\$500.00 from each Councilmanic Grant Account) to La Esperanza for the Sisters Fund.

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 HOLISTIC TREATMENT CENTER INCLUDING MASSAGE, ACUPUNCTURE, AND CHIROPRACTOR TO BE LOCATED ON A CERTAIN PARCEL

**Introduction
of Proposed
Ordinances
(continued)**

OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.55 ACRE, MORE OR LESS” (Conditional Use No. 2109) filed on behalf of Quakertown Wellness Center (Tax I.D. No. 335-8.14-49.00 and 335-8.00-35.00) (911 Address: 1204 Savannah Road, Lewes).

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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.72 ACRES, MORE OR LESS” (Change of Zone No. 1840) filed on behalf of Preston and Brenda Brasure (Tax I.D. No. 134-11.00-200.00 and 134-11.00-200.01) (911 Address: 32026 and 32014 Roxana Road, Ocean View).

Mr. Arlett 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.29 ACRES, MORE OR LESS” (Change of Zone No. 1841) filed on behalf of Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut (Tax I.D. No. 134-19.00-22.00 (portion of) (911 Address: Not Available).

Mr. Arlett 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.4968 ACRES, MORE OR LESS” (Change of Zone No. 1842) filed on behalf of Carmelita L. Pavlosky and Karl Meek (Tax I.D. No. 533-11.00-82.03) (911 Address: 36169 Zion Church Road, Frankford).

The Proposed Ordinances will be advertised for Public Hearing.

**Council
Members’
Comments**

Council Members’ Comments

Mr. Cole commented on older manufactured housing parks and asked that Council place this matter on a future agenda to discuss how to address problems in parks, i.e. setbacks.

Mr. Cole commented on the yard sale and abandoned homes complaints heard during public comments on this date and asked that Council look at existing regulations and discuss the problems at a future Council meeting.

Mr. Arlett commented on a property that was previously a dump site and

Comments (continued)	<p>has now been cleaned up. He commended the County and the State on working together to resolve this problem site.</p> <p>Mr. Arlett commended and thanked Sussex County paramedics, referencing the presentation and testimony on this date which demonstrates why public safety must be a priority.</p>
M 407 17 Go Into Executive Session	<p>At 12:14 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending litigation and land acquisition.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
Executive Session	<p>At 12:17 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to pending litigation and land acquisition. The Executive Session concluded at 1:35 p.m.</p>
M 408 17 Reconvene Regular Session	<p>At 1:37 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to come out of Executive Session and reconvene the Regular Session.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Absent; Mr. Cole, Yea; Mr. Vincent, Yea</p>
E/S Action	<p>There was no action on Executive Session matters.</p>
Rules	<p>Mr. Moore read the Rules of Procedure for public hearings.</p> <p>Mr. Cole left the room and did not attend or participate in the first Public Hearing,</p> <p>Mr. Wilson joined the meeting.</p>
Public Hearing/ CU 2085	<p>A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.16 ACRES, MORE OR LESS" (Conditional Use No. 2085) filed on behalf of Land and Marketing Corporation (Tax I.D. No. 134-9.00-88.00, 80.06, and 80.01 (portion of) (911 Address: Not Available).</p>

**Public
Hearing/
CU 2085
(continued)**

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

The Planning and Zoning Commission held a Public Hearing on this application on July 13, 2017 at which time action was deferred. On July 27, 2017, the Commission recommended approval with the following conditions:

- A. The maximum number of residential units shall be 19.**
- B. All entrances, intersection, roadways and multi-modal improvements shall be completed by the Developer in accordance with all DelDOT requirements.**
- C. The project shall be served by Sussex County sewer. The Developer shall comply with all Sussex County Department requirements including any offsite upgrades necessary to provide service to the project.**
- D. The project shall be served by central water to provide drinking water and fire protection.**
- E. The Applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including any buffer areas.**
- F. All construction and site work on the properties, including deliveries of materials to or from the property, shall only occur between 7 a.m. and 6 p.m. Monday through Saturday.**
- G. Street naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- H. The Applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance of the streets, road, any buffers or landscaping, stormwater management facilities, erosion and sediment control facilities and other common elements.**
- I. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
- J. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- K. The Final Site Plan shall be subject to review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated July 13 and 27, 2017.)

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

The Council found that Jeff Clark with Land Tech Land Planning, LLC and Robert Harris, President of Land and Marketing Corporation, were present on behalf of the application. Mr. Clark reported on the proposed use of the property as a single family home community with 19 homes (Salt

**Public
Hearing/
CU 2085
(continued)**

Aire). Information presented included an environmental assessment, public facility evaluation, PLUS comments and Applicant's response, boundary and topographic survey, storm drainage design, public water (Sussex Shores) and wastewater service (Sussex County), analysis of traffic, open space (57%), architectural floor plans, setbacks, buffers, parking, streetlighting, landscaping, FEMA requirements, and compliance with the County's Land Use Plan,

Mr. Clark reported that the site is in an Investment Level 3 Area according to Strategies for State Policies and Spending; that the project is within the Environmentally Sensitive Development District Overlay Zone; that DelDOT did not require a Traffic Impact Study or a Traffic Operations Analysis; that DelDOT will require a public right-of-way dedication along Sandy Cove Road and Cedar Neck Road and a permanent sign easement (community name signage at the gateway to the community); and that access into the community will be from Sandy Cove Road.

Mr. Clark also reported that the site consists of 4.61 acres and is comprised of three abutting tracks of land on three separate tax parcels and is mostly undeveloped; that there is an interior parcel of land surrounded by existing single family dwellings, all of which are fronting on existing roads and streets; that one residence and some storage buildings are currently on the site; and that the entire Salt Aire track is zoned GR General Residential as are all the existing lots abutting the property on all sides.

Mr. Clark also reported that the project lies within the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District; that the allocated EDU capacity is 15 EDUs; that a letter was received from John Ashman, Sussex County Engineering Department, stating that there are no capacity issues; and that they propose to enter into a Use of Existing Infrastructure Agreement with Sussex County and purchase an additional 4 EDUs.

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

Mr. Vincent questioned Mr. Clark's report on the Engineering Department's comments relating to sewer capacity and he referenced a letter written by Rob Davis of the Sussex County Engineering Department that is not in agreement with Mr. Ashman's letter (referenced by the Applicant). Mr. Vincent stated that he would like to receive an explanation/clarification from the Engineering Department on this matter.

**M 409 17
Defer
Action/
CU 2085**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to defer action on Conditional Use No. 2085 filed on behalf of Land and Marketing Corporation for the purpose of receiving a response to a sewer capacity question (submitted to the Sussex County Engineering Department) with the record remaining open for a period of ten days for a written response; and further, once the written response has been received, the record will remain open for a period of one week for the Applicant to have the opportunity to respond.

**M 409 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**

**Public
Hearing/
CU 2086**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BEAUTY SHOP (WITH TWO CHAIRS AND THREE EMPLOYEES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.012 ACRES, MORE OR LESS” (Conditional Use No. 2086) filed on behalf of Kristin Bryan (Tax I.D. No. 133-10.00-9.07) (911 Address: 26330 Governor Stockley Road, Georgetown).

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

The Planning and Zoning Commission held a Public Hearing on this application on July 13, 2017 at which time the Commission recommended approval with the following conditions:

- A. There shall be no more than three employees.**
- B. The Applicant shall comply with all roadway and entrance improvements required by DelDOT.**
- C. There shall be no more than two chairs in the beauty shop.**
- D. One unlit sign shall be permitted, it shall not be greater than 32 square feet per side.**
- E. 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 July 13, 2017.)

The Council found that Cory Bryan (the Applicant’s husband) was in attendance on behalf of the application. He stated that the business is currently a sole proprietorship; that his wife proposes to step away from the business; however, she will still manage it and own it; that they propose two new employees to take over the existing customer base; that they are not expanding the customer base and therefore, the foot/road traffic will not change; that parking will remain the same; and that they propose to offer additional services that customers have requested.

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

The Public Hearing and public record were closed.

Mr. Moore read the title of the Proposed Ordinance.

**M 410 17
Amend
Condition**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to amend Condition D recommended by the Planning and Zoning Commission, as follows:

F. One unlit sign shall be permitted, it shall not be greater than 16 square feet per side.

Motion Adopted: 5 Yeas.

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

**M 411 17
Adopt
Ordinance
No. 2516/
CU 2086**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2516 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BEAUTY SHOP (WITH TWO CHAIRS AND THREE EMPLOYEES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.012 ACRES, MORE OR LESS" (Conditional Use No. 2086) filed on behalf of Kristin Bryan, with the following conditions, as amended:

- A. There shall be no more than three employees.**
- B. The Applicant shall comply with all roadway and entrance improvements required by DelDOT.**
- C. There shall be no more than two chairs in the beauty shop.**
- D. One unlit sign shall be permitted, it shall not be greater than 16 square feet per side.**
- E. 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**

**Public
Hearing/
CU 2087**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0218 ACRES, MORE OR LESS" (Conditional Use No. 2087) filed on behalf of John F. and Brenda L. Fegelein Trustees (Tax I.D. No. 533-6.00-18.01) (911 Address: Not Available).

**Public
Hearing/
CU 2087
(continued)**

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

The Planning and Zoning Commission held a Public Hearing on this application on July 13, 2017 at which time the Commission deferred action. On July 27, 2017, the Commission recommended approval with the following conditions:

- A. One lighted sign not to exceed 32 square feet per side.**
- B. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- C. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- D. All repairs shall be performed indoors. No automobile parts shall be stored outside.**
- E. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.**
- F. As proposed by the Applicant, no more than 8 cars shall be on the site for repairs at any one time.**
- G. The property shall be screened from view of neighboring properties with a fence or vegetation. This screen shall be shown on the Final Site Plan.**
- H. No cars shall be sold on the property.**
- I. The site shall be subject to all DelDOT entrance and roadway requirements.**
- J. The hours of operation shall be from 7:00 a.m. through 6:00 p.m., Monday through Saturday.**
- 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 July 13 and 27, 2017.)

Ms. Cornwell reported that an email has been received from Howard (Keith) and Leah Clark suggesting conditions of approval if the application is not denied. The correspondence was made a part of the record.

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

William Scott, Attorney with Scott and Schumann, was present on behalf of the application with Mr. Fegelein, the Applicant, and Mr. Smudin, owner of Roxana Automotive Services, the proposed tenant.

Mr. Scott and Mr. Smudin stated that the relocation of the business (Roxana Automotive Services) is proposed; that the lease at the current site will expire on October 20, 2017; that the application site, where relocation is proposed, is currently unimproved; that the business is established in the area and the proposed business site is in the general area of the current

**Public
Hearing/
CU 2087
(continued)**

location; that no employees are proposed; that eight parking spots are proposed and will be screened (to be shown on the final site plan); that the site is located in a Low Density Rural Area; and that the use will have no impact on neighboring properties.

Mr. Smudin presented three additional letters of support (in addition to letters previously submitted to Planning and Zoning). The letters were made a part of the record.

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

The Public Hearing and public record were closed.

Mr. Moore read the title of the Proposed Ordinance.

**M 412 17
Amend
Condition**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to amend Condition A recommended by the Planning and Zoning Commission, as follows:

A. One lighted sign not to exceed 16 square feet per side.

Motion Adopted: 5 Yeas.

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

**M 413 17
Amend
Condition**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to amend Condition D recommended by the Planning and Zoning Commission, as follows:

D. All repairs shall be performed indoors. No outside storage permitted (propane and oil tanks for heat shall not be considered storage).

Motion Adopted: 5 Yeas.

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

**M 414 17
Adopt
Ordinance
No. 2517/
CU 2087**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2517 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0218 ACRES, MORE OR LESS" (Conditional Use No. 2087) filed on behalf of John F. and Brenda L. Fegelein Trustees, with the following

**M 414 17
Adopt
Ordinance
No. 2517/
CU 2087
(continued)**

conditions, as amended:

- A. One lighted sign not to exceed 16 square feet per side.**
- B. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.**
- C. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- D. All repairs shall be performed indoors. No outside storage permitted (propane and oil tanks for heat shall not be considered storage).**
- E. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.**
- F. As proposed by the Applicant, no more than 8 cars shall be on the site for repairs at any one time.**
- G. The property shall be screened from view of neighboring properties with a fence or vegetation. This screen shall be shown on the Final Site Plan.**
- H. No cars shall be sold on the property.**
- I. The site shall be subject to all DelDOT entrance and roadway requirements.**
- J. The hours of operation shall be from 7:00 a.m. through 6:00 p.m., Monday through Saturday.**
- K. 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**

**Public
Hearing/
CZ 1824**

A Public Hearing was held on 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.38 ACRES, MORE OR LESS” (Change of Zone No. 1824) filed on behalf of Tomark, LLC (Tax I.D. No. 234-32.00-73.00) (911 Address: Not Available).

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

The Planning and Zoning Commission held a Public Hearing on this application on July 13, 2017 at which time the Commission deferred action. On July 27, 2017, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated July 13, and 27, 2017.)

**Public
Hearing/
CZ 1824
(continued)**

The Council found that Harold Dukes, Attorney with Tunnell & Raysor, P.A., Mark Showell, and Tom DePrince were present on behalf of the application. Also present was John Murray of the Kercher Group.

Information reviewed included the preliminary layout of the project; the aspects of the property; the selection of the site as a potential warehouse site, and other commercial zonings and uses in the surrounding area.

They stated that they are seeking commercial zoning for the purpose of using the site for storage of antiques and for a showroom for antiques; that the site is centrally located between both of Mr. Showell's business locations (Mark Showell Interiors); that Delmarva Power's substation is the adjacent property; that the site is in an Investment Level 2 Area according to Strategies for State Policies and Spending; that they propose a multi-use path along the Route 24 frontage; that there are no plans to provide an access for this project via Jersey Road; that they have received a Letter of No Objection from DelDOT and that no Traffic Impact Study was required; that there is a small panhandle of property that goes from the large section of the property to Jersey Road and that area is 20 feet wide; that to create an access there would not be possible by Fire Marshal and County standards; that a one way access could fit but there are absolutely no plans to provide access to this parcel from Jersey Road; and that the proposed zoning change is consistent with the Comprehensive Plan.

There were no public comments in support of the application.

The following people spoke in opposition to the application: Ms. Brasby, Alice Betts, Karen Lessey and her grandson, Nicholas, Alice Ann Williams, and Bob Seringer. They expressed concerns about traffic and the use of Jersey Road as a cut-through; the safety of children and senior citizens, the impact the project will have on the area and property values, permitting another commercial activity in a residential area; and the inadequate signage/notification of the public hearings for this application.

There were no additional public comments.

The Public Hearing was closed.

A discussion was held regarding the panhandle portion of the property and the concerns expressed by the opposition regarding access to the site from Jersey Road. Discussion was held on the possibility of eliminating the potential Jersey Road access via the panhandle and the possibility of deeding the panhandle portion of the property to a neighboring property owner which would eliminate the Jersey Road concern.

Mr. Moore noted that if a deed is proffered, it is still not a promise on how the Council will vote.

**M 415 17
Defer
Action on
CZ 2087**

A Motion was made by Mr. Cole, seconded Mr. Arlett, to defer action on Change of Zone No. 2087 and to close the public record with the exception of leaving the record open for any potential amendment by way of a deed; the record will remain open for 30 days for this information only (a deed for the portion of land accessing Jersey Road).

Motion Adopted: 5 Yeas.

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

**M 416 17
Adjourn**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to adjourn at 3:16 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.}