

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 1, 2026

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 1, 2026, at 10:00 a.m., in Council Chambers, with the following present:

Douglas B. Hudson	President
John L. Rieley	Vice President
Jane Gruenebaum	Councilwoman
Matt Lloyd	Councilman
Steve C. McCarron	Councilman
Todd F. Lawson	County Administrator
Gina Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

Call to Order	The Invocation and Pledge of Allegiance were led by Mr. Hudson. Mr. Hudson called the meeting to order.
M 390 26 Approve Agenda	Mr. Lawson reported that under Todd Lawson, County Administrator, Library Advisory Appointment can be removed from the agenda. A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, to approve the Agenda, as amended. Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
Minutes	The minutes from August 25, 2026, were approved by consensus.
Corre-Spondence	There was no correspondence. Public comments were heard.
Public Comments	Ms. Wendy Taylor spoke about the proposed forest preservation Ordinance. Ms. Judy Rose Siebert spoke about the proposed forest preservation Ordinance. Ms. Janet Le Digabel spoke about the proposed forest preservation Ordinance.
M 391 26 Approve	A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to approve the following items under the Consent Agenda:

Consent Agenda	Proclamation Request – Emergency Preparedness Month Use of Existing Wastewater Infrastructure Agreement, IUA 1183 Leeward Chase, Airport Area Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
HJR 11	Mr. Lawson reported that an appointment is requested by House Joint Resolution No. 11 for the Housing Opportunity & Poverty Elimination committee.
M 392 26 Approve HJR 11 Appointment	A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to be it moved that Sussex County Council appoints Mrs. Brandy Nauman, Director of Community Development & Housing, to serve on the Housing Opportunity and Poverty Elimination court program effective immediately. Motion Adopted: 5 Yeas Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea; Mr. Lloyd, Yea; Mr. Rieley, Yea; Mr. Hudson, Yea
Administrator's Report	Mr. Lawson read the following information in his Administrator's Report: 1. <u>Council Meeting and Holiday Schedule</u> Council will not meet on Tuesday, September 8th or Tuesday, September 15th. The next regularly scheduled Council meeting will be held on Tuesday, September 22nd. In addition, County offices will be closed Monday, September 7th, for the Labor Day holiday. [Attachments to the Administrator's Report are not attached to the minutes.]
3rd Quarter Employee Recognition	Karen Brewington, Human Resources Director, reported that there were 29 submissions received for the third quarter employee recognition awards. This quarter, Sarah Hastings from the Assessment Department was selected as the winner.
Public Hearing/ Bethany	A Public Hearing was held on an Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,197,174 OF A GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN

**Forest
Septic
Elimination**

CONNECTION WITH THE BETHANY FOREST SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Paul Mauser, Assistant County Engineer, presented information regarding the Ordinance.

There were no public comments.

The Public Hearing and public record were closed.

**M 393 26
Adopt
Ordinance
No. 4083/
Bethany
Forest
Septic
Elimination**

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, to Adopt Ordinance No. 4083 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$7,197,174 OF A GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH THE BETHANY FOREST SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Assessment
Update**

Gina Jennings, Finance Director, presented an update on assessment. Mrs. Jennings provided information related to the request for proposals that is currently out. In addition, she discussed two state working groups that she will be serving on, HCR 150 and HCR 151. Mrs. Jennings reported that with the County required to do a reassessment every 5 years, municipalities that have been doing their own assessments are considering switching to the County’s. She is recommending a MOU to outline each entity’s responsibilities, the sharing of data by both entities, permitted use of the data and how the assessment file can be obtained and in what format.

**M 394 26
Approve
MOU/
Assessment**

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, be it moved that the Sussex County Council approves entering into a Memorandum of Understanding with any municipality that wants to utilize Sussex County’s tax assessment records for their billing purposes.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Ambulance
Program**

Mrs. Jennings presented information relating to the ambulance purchase program. By bulk purchasing the County and the companies, we were able

to secure a reduced price from Atlantic. Per Atlantic, this program is saving about \$17,500 per ambulance, or over \$50,000 a year. The specifications and next steps were then discussed. For the ambulance billing program, there were 7 qualified bids received from both local and national companies. The most cost-effective bidder was a current business that already does billings for 5 companies in Sussex. Depending on participation the cost could be as low as 3.5% for 3 years, where today's average is 7%.

**M 395 26
Approve
Tri-Party
Agreement**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron, be it moved that Sussex County Council approves entering into a tri-party agreement with each fire/ambulance company who wants to participate in the ambulance billing program with the vendor, Maverick, who was the recommended vendor by the SCVFA ambulance billing committee through the County's RFP process.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 396 26
Approve
MOU/
Ambulance
Purchase**

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd, be it moved that Sussex County Council approves entering into a MOU to provide funding for a base bid ambulance based on the results of the June 2026 ambulance purchase RFP.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Old
Business/
CU2485**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE INSTALLATION BUSINESS WITH OUTSIDE STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS" (property is and lying on the east side of Rust Road [S.C.R. 292A], approximately 0.27 mile south of Harbeson Road [Rt. 5]) (911 Address: 20601 Rust Road, Harbeson) (Tax Map Parcel: 234-4.00-10.32) filed on behalf of Christopher Hanyok.

**M 397 26
Amend
Condition
G/
DENIED**

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to amend Condition G to now read "All deliveries of metal, wood, vinyl, chain-link and other fencing materials associated with the use shall not be delivered to this site by way of 18-wheelers."

Motion DENIED: 2 Yeas, 3 Nays

**Vote by Roll Call: Ms. Gruenebaum, Nay; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Nay;
Mr. Hudson, Nay**

**M 398 26
Adopt
Ordinance
No. 4084/
CU2485**

A Motion was made by Mr. Rieley, seconded by Mr. McCarron to Adopt Ordinance No. 4084 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FENCE INSTALLATION BUSINESS WITH OUTSIDE STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” for the reasons and conditions as following:

- 1. The Applicant is seeking a conditional use for a fence installation business. The property is located in an AR-1 zoning district on a 5-acre parcel on the east side of Rust Road approximately 0.27 mile south of Harbeson Road and includes Applicant’s dwelling.**
- 2. The property is surrounded by farmland and wooded areas with many businesses located on the neighboring road, including landscaping and construction businesses.**
- 3. This use is appropriate for this location, and it will not generate a significant amount of traffic on area roadways. For the most part, it is a staging yard for employees associated with the business. The work associated with the business will largely occur off-site.**
- 4. The use will not adversely affect area roadways or neighboring properties.**
- 5. The company provides a service to a wide variety of Sussex County residents and businesses. This intended use is of a public or semi-public character that will benefit the residents and businesses of Sussex County.**
- 6. Though a denial was recommended by the Planning and Zoning Commission, the conditions being recommended by Council should relieve those concerns. Based on the record created before the Sussex County Council, the Conditional Use is approved subject to twenty (20) conditions (a through t) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**
 - a. The use shall be limited to the fence installation business proposed by the Applicant.**
 - b. No manufacturing or on-site retail sales shall occur on the site.**

**M 398 26
Adopt
Ordinance
No. 4084/
CU2485
(continued)**

- c. Vehicles associated with the use, including a small excavator, small skid steer and two (2) trailers, may be stored outside at the rear of the property. The mini excavator shall be stored inside the pole building.**
- d. No junked, unregistered, or permanently inoperable vehicles, trucks, or trailers shall be stored on the site.**
- e. All vehicle and equipment maintenance shall only occur within the existing pole building or off-site. No vehicle repairs shall take place outside.**
- f. The hours of operation shall be limited to 6:00 a.m. through 5:00 p.m., Monday through Saturday, with no Sunday hours.**
- g. All deliveries of metal, wood, vinyl, chain-link and other fencing materials associated with the use shall be delivered to each individual job site. Deliveries of all such materials to the site are prohibited.**
- h. Outside storage of metal, wood, vinyl, chain-link and other fencing materials associated with the use is prohibited.**
- i. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways. The location of all external lighting shall be shown on the Final Site Plan.**
- j. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- k. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. Parking within the property's setbacks is prohibited.**
- l. No sign is permitted.**
- m. The dumpster shall be screened from the neighbor's view. The dumpster's location shall be shown on the Final Site Plan.**
- n. The diesel and gasoline fuel tanks shall be maintained in accordance with all applicable ordinances, laws and regulations.**
- o. Prior to the Final Site Plan approval, the Applicant shall confirm with County Staff that all buildings have commercial certificates of occupancy.**

**M 398 26
Adopt
Ordinance
No. 4084/
CU2485
(continued)**

- p. There shall be a 30-foot buffer around the perimeter of the site except for the following locations:**
 - i. The area immediately adjacent to the 1600 square foot garage;**
 - ii. The southernmost corner of the 100' x 40' garage, where only a 24-foot buffer can be achieved;**
 - iii. The southern side of the septic leach field where an approximate buffer of 15 feet can be achieved; and**
 - iv. The portion of the property where the driveway is less than 30 feet from the adjacent property line. In that area the buffer shall be reduced to 15 feet.**

The 20' x 26' shed in the southeast corner shall be relocated on the site to accommodate the 30-foot buffer.

- q. The Applicant shall install privacy fence around the perimeter of the property. The location and type of fencing shall be shown on the Final Site Plan.**
- r. Within 60 days of approval, Applicant shall submit a revised site plan to the Office of Planning and Zoning which depicts the changes required in these conditions. Once approved, the buffer and other changes shown on the approved plan shall be implemented in accordance with the approved plan within 6 months from the date of approval.**
- s. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- t. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Old
Business/
Forest
Preservation**

Under Old Business, Mr. Whitehouse presented a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I, III AND V §99-5 "DEFINITIONS", §99-21A "PERIMETER BUFFERS" AND §99-26 "INFORMATION TO BE SHOWN" AND CHAPTER 115, ARTICLES I, XXV AND XXVIII §115-4 "DEFINITIONS AND WORD USAGE" AND §115-221 "FINAL SITE PLAN REQUIREMENTS" AND BY ADDING NEW §§115-194.8 "FOREST PRESERVATION" AND 115-194.9 "TREE PLANTING REQUIREMENTS".

Vince Robertson, Assistant County Attorney presented the Proposed

Ordinance.

**M 399 26
Amended
Ord No. 26-
05/Line 44**

A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron be it moved that the Introduced Ordinance be amended at Line 44 to insert a new “Whereas” clauses as follows:

WHEREAS: Forests and woodland resources within Sussex County provide essential ecological, economic, and public health benefits to the residents of the County, including watershed protection, stormwater management, carbon sequestration, air quality improvement, habitat for native wildlife, and contribution to the rural character and scenic quality of the County; and

WHEREAS: The watersheds, water bodies, and tidal waters of Sussex County, depend significantly on riparian and upland forest cover for water quality protection, nutrient and sediment filtration, and stream bank stabilization; and

WHEREAS: Mature forest and forest interior habitat support native biodiversity, including migratory birds, native pollinators, and other wildlife dependent on connected forest landscapes; and

WHEREAS, The establishment of clear, predictable standards for forest preservation and tree replacement serve the public interest by providing certainty to property owners, developers and the public regarding the Sussex County’s expectations for land disturbing activities; and

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 400 26
Amend Ord
No. 26-05/
Lines 61 &
453**

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron, be it moved that the Introduced Ordinance be amended at Sections 1 and 4 at Lines 61 and 453 regarding Sections 99-5 and 115-4 “Definitions” to delete the introduced definition of “Forest” and replace it with the following one:

FOREST – A vegetative community dominated by trees and other woody plants: (i) covering a land area of one acre or greater; and (ii) having a width of at least 120 feet at any point (measured from the canopy drip line); and (iii) having at least 100 trees per acre (excluding invasive species) with at least 50% of those having a four inch or greater diameter at 4.5 feet above the ground; (iv) or larger or areas with trees meeting the foregoing requirements that have been cut but neither stumps were removed nor land regraded. Active tree nurseries or orchards shall not be considered a Forest.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;

Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 401 26 A Motion was made by Mr. Lloyd, seconded by Mr. McCarron be it moved
Amend Ord that the Introduced Ordinance be amended at Section 2, Lines 93-425
No. 26- regarding 99-21A “Perimeter Buffers” be amended to Delete all
05/Lines 93- replacements of “Woodlands” with “Forest” as set forth in the Introduced
425 Ordinance so that Section 99-21A continues to refer to “Woodlands”. All
other amendments to Section 99-21A as shown in the Introduced Ordinance
shall remain.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
 Mr. Lloyd, Yea; Mr. Rieley, Yea;
 Mr. Hudson, Yea

M 402 26 A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum be it
Amend Ord moved that the Introduced Ordinance be amended at Section 3, Line 440 to
No. 26-05/ add a new subpart (24) to Section 99-26 “Information to be Shown” to
Line 440 require a landscape plan as follows:

*(24) A Landscape Plan showing all vegetation to be preserved or planted
throughout the subdivision. This Landscape Plan may incorporate the
information required by (16) and (21) as well as the Perimeter Buffer
Landscape Plan.*

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
 Mr. Lloyd, Yea; Mr. Rieley, Yea;
 Mr. Hudson, Yea

M 403 26 A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron be it
Amend Ord moved that the Introduced Ordinance be amended at Section 5, Line 480 to
No. 26-05/ insert a new Paragraph at the beginning of Section 115-194.8 “Forest
Line 480 Preservation” to establish the “Purpose” of Forest Preservation:

*The purpose of this Section is to protect, preserve, and enhance the forest
resources of Sussex County in recognition of the substantial public benefits
that forested land provides — including stormwater management,
groundwater recharge, flood mitigation, wildlife habitat, air and water quality
protection, and scenic and recreational value — and to ensure that land
development activities minimize the unnecessary loss of forest cover.*

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
 Mr. Lloyd, Yea; Mr. Rieley, Yea;
 Mr. Hudson, Yea

M 404 26
Amend Ord
No. 26-05/
Line 508

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd be it moved that the Introduced Ordinance be amended at Section 5 regarding Section 115-194.8 “Forest Preservation” at Line 508 to insert a new sentence at the end of subpart B(1)(a) confirming that existing trees in a Perimeter Buffer may count towards the forest preservation calculations in the Growth Area as follows:

Pre-existing Woodlands located in the Perimeter Buffer shall be included in this percentage.

Motion Adopted: 4 Yeas, 1 Nay

Vote by Roll Call: Ms. Gruenebaum, Nay; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 405 26
Amend Ord
No. 26-05/
Line 516

A Motion was made by Mr. McCarron, seconded by Mr. Lloyd be it moved that the Introduced Ordinance be amended at Section 5 regarding Section 115-194.8 “Forest Preservation” at Line 516 to insert a new sentence at the end of subpart B(1)(b) confirming that existing trees in a Perimeter Buffer shall not count towards the forest preservation calculations in the Rural Area as follows:

Pre-existing Woodlands located in the Perimeter Buffer shall not be included in this percentage.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 406 26
Amend Ord
No. 26-05/
Lines 518-
531

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum be it moved that the Introduced Ordinance be amended at Section 5 regarding Section 115-194.8 “Forest Preservation” at Lines 518-531 to Clarify the prioritization of certain types of tree preservation by rewording this subsection (2) as follows:

(2) The areas of Forest that are contiguous with existing off-site forest, are located in sensitive areas such as the 100-year floodplain, or are located near or adjacent to perennial nontidal rivers and streams or intermittent streams and their buffers, shall be considered a priority for retention and protection as part of the percentages set forth in subsections B(1)(a) and (b) above. Developments that seek to disturb or remove these areas of Forest must comply with the waiver requirements of Section C below.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 407 26
Amend Ord
No. 26-05/
Lines 533-
540

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum be it moved that the Introduced Ordinance be amended at Section 5 regarding Section 115-194.8 “Forest Preservation” at Lines 533 and 540 to correct the numbering so that they now reflect subsections (3) and (4).

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 408 26
Amend Ord
No. 26-05/
Line 546

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron be it moved that the Introduced Ordinance be amended at Section 5 regarding Section 115-194.8 “Forest Preservation” starting at Line 546 to add a waiver requirement with standards mirroring Resource Buffers, and separate the paths for on-site mitigation from a new off-site and “fee in lieu” mitigation opportunities by deleting lines 546 through 611 in their entirety and replacing them with the following language:

C. Mitigation of Forest Removal.

The Commission shall be authorized, as part of the site plan review process, to allow the removal of Forest in excess of the amounts permitted under § 115-194.8B, but only upon the satisfaction of all of the following conditions by the Commission:

(1) That special conditions or circumstances exist that are peculiar to the land and that a literal enforcement of a specific requirement of this section would result in unwarranted hardship.

(2) That the request to remove Forest is not based upon conditions or circumstances which are: (a) the result of actions by the applicant, (b) the number of housing units on the property, (c) financial or economic considerations, nor (d) any condition relating to land or building use, either permitted or nonconforming, on any neighboring property.

(3) That the removal of the excess Forest and the mitigation set forth below are in harmony with the general spirit and intent of this section and any subsequent regulations.

Upon satisfaction of the foregoing conditions, an applicant shall be entitled to mitigate the removal of excess forest through on-site or off-site means and methods as follows:

On-Site Mitigation. An applicant may mitigate the approved removal of Forest in excess of the amounts permitted under § 115-194.8B by complying with the following requirements:

(a) A mitigation plan shall be prepared by a licensed landscape architect, certified arborist, licensed forester or forester designated by the Society of American Foresters as a

M 408 26
Amend Ord
No. 26-05/
Line 546
(continued)

“certified forester”. The mitigation plan shall include the following information and shall also comply with the requirements of subparagraph (d) below:

- i. A table that lists the proposed values of the following, in square feet:
 - a. The gross Forest area on the entire property prior to an application for development being filed with the Department.
 - b. The area of Forest to be protected and preserved on the entire property.
 - c. The area of Forest that the applicant proposes to remove.
 - ii. A site plan with clear graphic indication of the Forest, drawn to scale, showing the Forest to be protected and the Forest to be removed.
- (b) If the application is located in a Growth Area as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan then the Forest area cleared in excess of the amounts permitted under § 115-194.8B shall be reforested in accordance with the mitigation plan in an amount equal to 2.0 times the Forest area cleared in excess of the amount required to be preserved under §115-194.8B (measured to the nearest square foot). Pre-existing Woodlands located in the Perimeter Buffer shall be included in this percentage.
- (c) If the application is located in a Rural Area as described within the Land Use Element and as shown on the Future Land Use Map of the adopted Sussex County Comprehensive Plan then the Forest area cleared in excess of the amounts permitted under § 115-194.8B shall be reforested in accordance with the mitigation plan in an amount equal to 2.5 times the Forest area cleared in excess of the amount required to be preserved under §115-194.8B (measured to the nearest square foot). Pre-existing Woodlands located in the Perimeter Buffer shall not be included in this percentage.
- (d) The mitigation plan shall demonstrate reforestation that

M 408 26
Amend Ord
No. 26-05/
Line 546
(continued)

creates a biological community dominated by native trees and other woody plants that should be planted at a minimum caliper of 2.5” for shade trees, 1.5” for ornamental trees, and six-foot height for multi-stem and evergreen trees and containing at least 100 live trees per acre with a least 50 percent of those trees having the potential of attaining a 2-inch or greater diameter measured at 4.5 feet above the ground within 7 years. The mitigation plan shall demonstrate the location, spacing, height, and species of existing and new trees proposed to meet Forest mitigation requirements.

(e) The mitigation plan shall provide the location, protective tree fencing, staking, or continuous ribbon installed along the entire edge of any reforested area, which shall also be installed on the site itself. All work conducted pursuant to this subsection shall comply with the American National Standard Institute (ANSI) A300 Standards.

Off-site Mitigation. An applicant may mitigate the approved removal of Forest in excess of the amounts permitted under § 115-194.8B by complying with the following requirements:

(a) The preserved or replanted Forest shall be located in the same twelve-digit hydrologic unit code as defined by the United States Geological Survey as the development.

(b) Any off-site preserved Forest shall be assessed by a licensed landscape architect, certified arborist, licensed forester or forester designated by the Society of American Foresters as a “certified forester” to determine the condition and quality of the off-site forest area that is proposed to be protected.

(c) Any off-site replanted Forest shall require a Mitigation Plan as described above.

(d) The preserved or replanted Forest shall be protected in perpetuity by a conservation easement in favor of Sussex County or a conservation organization approved by the Director, and the preserved or replanted Forest shall not be used to satisfy these requirements for future preservation or if the off-site property is developed in the future.

Motion Adopted: 5 Yeas

Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea

M 409 26

A Motion was made by Mr. Rieley, seconded by Mr. McCarron be it moved

**Amend Ord
No. 26-05/
Line 612** that the Introduced Ordinance be amended at Section 5 regarding Section 115-194.8 “Forest Preservation” starting at Line 612 to add a new requirement for a 5-year lookback by inserting a new subsection “D.” and re-lettering the following subsections:

D. In the event that any area of Forest within the property to be subdivided was removed, harvested, cleared or grubbed within five years prior to the date of application to the Commission as determined by the Director or his or her designee, the applicant shall comply with the On-Site Mitigation or Off-Site Mitigation requirements of subsection C herein for the Forest that was removed, harvested, cleared or grubbed and the subdivision shall not be issued a Notice To Proceed for a period of five years from the date that the Forest on the property was cleared, harvested, or grubbed. It shall be the applicant’s responsibility to submit evidence such as a Forest Stand Delineation as of the date the Forest was removed, demonstrating the condition of the property at the time of removal.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 410 26
Amend Ord
No. 26-05/
Line 628 &
635** A Motion was made by Mr. Lloyd, seconded by Ms. Gruenebaum be it moved that the Introduced Ordinance be amended at Section 5 regarding Section 115-194.8 “Forest Preservation” at Lines 628 and 635 to correct the numbering so that they now reflect subsections (3) and (4).

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 411 26
Amend Ord
No. 26-05/
Line 659** A Motion was made by Mr. Rieley, seconded by Mr. McCarron be it moved that the Introduced Ordinance be amended at Section 5 regarding Section 115-194.8 “Forest Preservation” at Line 659 re-lettered as Subsection F “Violations and Penalties” to revise the dollar amount identified therein from \$4.356 per square foot to \$1.00 per square foot.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**M 412 26
Amend Ord
No. 26-05/
Lines 784-
787**

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron be it moved that the Introduced Ordinance be amended at Section 8, Line 783 to revise the Effective Date so that the ordinance effect date now reads as follows:

This ordinance shall become effective three (3) months from the date of adoption by Sussex County Council. Provided, however, that it shall not apply to any completed applications on file with the Sussex County Office of Planning & Zoning.

Motion Adopted: 3 Yeas, 2 Nays

**Vote by Roll Call: Ms. Gruenebaum, Nay; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Nay**

**M 413 26
Adopt
Ordinance
No. 4085/
Ord No. 26-
05**

A Motion was made by Mr. Lloyd, seconded by Mr. McCarron to Adopt Ordinance No. 4085 entitled "AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I, III AND V §99-5 "DEFINITIONS", §99-21A "PERIMETER BUFFERS" AND §99-26 "INFORMATION TO BE SHOWN" AND CHAPTER 115, ARTICLES I, XXV AND XXVIII §115-4 "DEFINITIONS AND WORD USAGE" AND §115-221 "FINAL SITE PLAN REQUIREMENTS" AND BY ADDING NEW §§115-194.8 "FOREST PRESERVATION" AND 115-194.9 "TREE PLANTING REQUIREMENTS" as amended by this Council.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

**Grant
Request**

Mrs. Jennings presented a grant request for Council's consideration.

**M 414 26
DE Seaside
RR Club,
Inc.**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$ 1,500 (\$750 from Mr. Rieley's Councilmanic Grant Account and \$750 from Mr. Hudson's Councilmanic Grant Account) to Delaware Seaside Railroad Club, Inc. for signage and an AED bathroom.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Ord Intros

There were no Proposed Ordinances for Introduction.

CM

There were no Council Member comments.

Comments
M 415 26
Adjourn

A Motion was made by Mr. Rieley, seconded by Mr. Lloyd to adjourn at 11:51 a.m.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Ms. Gruenebaum, Yea; Mr. McCarron, Yea;
Mr. Lloyd, Yea; Mr. Rieley, Yea;
Mr. Hudson, Yea**

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

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