

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 11, 2018

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 11, 2018, 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

A Moment of Silence was observed on the 17th anniversary of the 9/11 terrorist attacks in New York City, Washington D.C. and Shanksville, Pennsylvania.

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 482 18
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of August 21, 2018 were approved by consent.

**Corre-
spondence**

Correspondence

**REHOBOTH SUMMER CHILDRENS THEATRE, REHOBOTH BEACH,
DELAWARE.
RE: Letter in appreciation of grant.**

**Public
Comments**

Public Comments

Paul Reiger referenced definitions in County Code and specifically *assisted living facilities*. He also referenced a recent application for an assisted living facility and discussed why the application should have been brought to the Planning and Zoning Commission instead of the Board of Adjustment.

**Public
Comments
(continued)**

Dan Kramer referenced an Old Business matter, Conditional Use No. 2129, and commented on the advertisement for that application.

Virginia Weller commented on the process of establishing a water district in the Town of Ellendale.

Keith Steck commented on the operations of the Board of Adjustment and the Sussex County Council's oversight of that Board.

**League
of Women
Voters
Annual
Report**

Ms. BR Breen, Observer Corps Coordinator for the League of Women Voters of Sussex County, presented the League's Annual Report (Sunshine Report) to the Sussex County Council. As part of the League of Women Voters' support for openness in government, its Observer Corps monitors the activities of governmental bodies for issues of importance to the League and to the County. The Observer Corps has completed its ninth year of activity; observers attended County Council and Planning and Zoning Commission meetings.

Highlights and observations referenced: (1) citizen participation, access and right to know; (2) clarification in County procedures, policies and ordinances; (3) land use decisions; and (4) 2018 Comprehensive Plan. The report also noted concerns as well as compliments to the County/staff.

Ms. Breen presented copies of the report to the Council.

**M 483 18
Approve
Consent
Agenda
Items**

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

- 1. Wastewater Agreement No. 667-4
Sussex County Project No. 81-04
Dove Landing – Phase 1A
Millville Expansion of the Bethany Beach Sanitary Sewer District**
- 2. Wastewater Agreement No. 667-5
Sussex County Project No. 81-04
Dove Landing – Phase 1BC
Millville Expansion of the Bethany Beach Sanitary Sewer District**
- 3. Wastewater Agreement No. 638-18
Sussex County Project No. 81-04
The Estuary – Phase 1C-3A (Construction Record)
Miller Creek Sanitary Sewer District**
- 4. Wastewater Agreement No. 1053-5
Sussex County Project No. 81-04
Belle Terre – Pump Station
Goslee Creek Planning Area**

**M 483 18
(continued)**

Motion Adopted: 5 Yeas.

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

**Third
Quarter
Employee
Recogni-
tion
Awards**

Mrs. Jennings reported that the County recognizes employees for exceptional service and that a total of sixty-one (61) employees received recognition for the Third Quarter of 2018. Mrs. Jennings announced that four employees received special recognition for the Third Quarter of 2018. Alan Shields (Constables Office) was selected to receive the Third Quarter Customer Service Award, and three employees received Honorable Mention: John Sapp (Constables Office) and Robin Marvel and Lorri Bradley (Emergency Medical Services).

**Public
Hearing/
Proposed
Buffer
Ordinance**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I AND III, SECTIONS 99-5 AND 99-16 OF THE CODE OF SUSSEX COUNTY RELATING TO FORESTED AND/OR LANDSCAPED BUFFERS”.

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on August 9, 2018 at which time action was deferred. On August 23, 2018, the Commission deferred action again.

Janelle Cornwell, Planning and Zoning Director, reported that 75 letters/emails have been received in support of the Proposed Ordinance and 9 letters/emails have been received expressing concern or in opposition to the Proposed Ordinance.

Mr. Burton stated that the County currently has a 20 foot buffer ordinance around all subdivisions and the Proposed Ordinance would change that to 40 foot; that the County currently allows the open space calculation to include the 20 foot buffer and the Proposed Ordinance does not change that; that the County currently allows the density calculation to be included in the buffer and the Proposed Ordinance does not change that; that the Proposed Ordinance encourages the preservation of existing trees by allowing them to be used in a planting calculation; that the Proposed Ordinance adds to the planting calculation due to its additional 20 feet; that the Proposed Ordinance does not change the ability to adjust the 40 feet under circumstances that cannot be controlled; that the Proposed Ordinance creates buffers and buffers add to the quality of life; that buffers do a myriad of things and help in the following ways: tree line creates rural look of area, they give natural habitat a place to live, air quality, natural beauty, quality developments, impervious surfaces, etc.

Vince Robertson, Assistant County Attorney, reviewed what the Proposed Ordinance will do: expands the width of buffers; increases the buffer from 20 feet to 40 feet; currently in the Code there is a requirement for 15 trees staggered every 100 feet – the Proposed Ordinance will increase that to 25

**Public
Hearing/
Proposed
Buffer
Ordinance
(continued)**

trees; and promotes the maintenance of existing vegetation. It was noted that the requirements of the Proposed Ordinance will apply to major subdivisions (5 lots or more); RPCs will also be affected since RPCs follows the Subdivision Code.

Public comments were heard.

The following spoke in support of the Proposed Ordinance: Richard Holtkamp and Richard Borasso representing SARG, Sue Claire Harper (League of Women Voters of Sussex County), James LaBella, Thomas Haug, Regina Willoughby, Dave Carey, Karen Connelly, Babette Daley, Carol Pala, Amma vonLindenberg, Robert Tunnell III, and Paul Reiger. Comments in support referenced that it is time for an update to the buffer ordinance; that there is no shortage of land in Sussex County; that increasing the buffer between subdivisions will maintain and enhance the rural character of the County; that increased buffers will improve the overall landscaped outlook of developments; that there are benefits to protecting and preserving buffers with established trees; that trees provide protection during weather events; that it will provide more privacy and security between subdivisions; that it will add value to land and home ownership; that more trees are needed to offset impervious surfaces; that buffers are good for watershed protection, habitat protection, wildlife corridors, and recreational trails; and that it will set a higher standard of development in the County.

Some stated that they are not in opposition but recommending that a workshop be held and/or bring together a working group. In addition, one person spoke, not in opposition, but stated that details in the Proposed Ordinance need to be changed to make buffers more manageable for homeowners associations and specific guidelines established. It was stated that increased buffers are also needed between private residences bordering new development.

The following expressed concerns and spoke in opposition to the Proposed Ordinance: Robert Harris, R. C. Willin, Merritt Burke on behalf of SCAOR, Ring Lardner on behalf of ACEC, Bobby Horsey, James Baxter IV representing the Sussex County Farm Bureau, Dan Kramer, and Robert Thornton. Comments in opposition to the Proposed Ordinance referenced that a 20 foot buffer is more than adequate for a visual buffer; that it will become an 80 foot buffer (40 foot on each side); that it will be a burden to maintain the larger buffers, i.e. accessibility and use of equipment; that buffer maintenance costs will increase; that animal control will become a problem; that weather will have an impact on the buffers, i.e. downed trees and power lines; that there is concern about drainage and the size of trees; that larger buffers will add to developers' costs; that increased buffers will diminish density; that increased buffers will negatively impact property rights and property values; and that it will negatively impact affordable housing.

Public Hearing/ Proposed Buffer Ordinance (continued)

It was noted that the membership of the Sussex County Farm Bureau is in opposition to the Proposed Ordinance. It was also noted that the timing of holding a public hearing on this Proposed Ordinance is bad since it is harvest time for farmers (and also due to the impending storm/hurricane) and that many farmers that would have liked to attend this Public Hearing were unable to.

Suggestions were made to gather stakeholders (during winter months) to discuss the Proposed Ordinance.

M 484 18 Leave Public Hearing Record Open/ Proposed Buffer Ordinance

A Motion was made by Mr. Burton, seconded by Mr. Arlett, to leave open/continue the Public Hearing for one week on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I AND III, SECTIONS 99-5 AND 99-16 OF THE CODE OF SUSSEX COUNTY RELATING TO FORESTED AND/OR LANDSCAPED BUFFERS" including the public record thereby allowing people to speak at the continuation of the Public Hearing on September 18, 2018 (only if they did not speak at the Public Hearing on September 11, 2018); written comments will also be accepted during the one week time period.

Motion Adopted: 5 Yeas.

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

Annual CTP Presentation

Janelle Cornwell, Planning and Zoning Director, presented an update on the annual Capital Transportation Program (CTP) request. She noted that this is the annual process the County performs for consideration by DelDOT for transportation projects throughout the County. The County solicited comments from the public for projects to be conserved as part of the 2020 – 2025 CTP. Ms. Cornwell noted that the CTP request has a new format; this year's request includes a table of the projects requested to be included in the CTP. She also noted that the Draft request includes items that were included in the draft 2018 Comprehensive Plan, previous requests, and new requests. Drew Boyce of DelDOT presented information on how the County's requests are received and where projects are in the current and proposed CTP. Mr. Boyce discussed funding revenues, uses of funds, expenditures by County, CTP project progression and development and next steps. A public meeting will be held in Sussex County on September 26, 2018 for the public to provide comment on the CTP. DelDOT will continue to take public comments until October 8, 2018.

A discussion was held regarding prioritization of the County's proposed projects. Ms. Cornwell noted that this is still a draft request and changes can be made. Mr. Boyce discussed the statewide prioritization process.

M 485 18 Recess

At 1:14 p.m., a Motion was made by Mr. Burton, seconded by Mr. Arlett, to recess.

**M 485 18
(continued)**

Motion Adopted: 5 Yeas.

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

**M 486 18
Reconvene**

At 1:45 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to reconvene.

Motion Adopted: 5 Yeas.

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

Rules

Mr. Moore read the rules of procedure for public hearings.

**Public
Hearing/
CZ 1853**

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 AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.9136 ACRES, MORE OR LESS” (Change of Zone No. 1853) filed on behalf of Beebe Healthcare (Tax I.D. No. 334-12.00-125.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on August 9, 2018 at which time action was deferred. On August 23, 2018, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated August 9 and 23, 2018.)

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

The Council found that Rob Gibbs, Attorney, was present with Michael Riemann, P.E. with Becker Morgan Group. Also present were representatives of Beebe Healthcare. They stated that the application site abuts the existing Beebe property with a medical facility and medical offices and services; that the adjacent property is zoned AR-1 but has medical uses; that the property provides Beebe Healthcare the opportunity to expand existing medical services on a contiguous property to serve the growing needs of the area; that the property is in close proximity to Route 1 and will provide close access for medical care; that there are no wetlands or woodlands on the site; that the property will be served by Sussex County sewer; that the property is located in Tidewater’s CPCN area; that the property is located in the Investment Level 2 Area under State Strategies; and that DelDOT did not require a Traffic Impact Study.

**Public
Hearing/
CZ 1853
(continued)**

Mr. Cole referenced interconnectivity and Ms. Cornwell stated that the Planning and Zoning Commission can require interconnectivity as part of the site plan review.

There were no public comments.

The Public Hearing and public record were closed.

**M 487 18
Adopt
Ordinance
No. 2597/
CZ 1853**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2597 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN I-1 INSTITUTIONAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.9136 ACRES, MORE OR LESS" (Change of Zone No. 1853) filed on behalf of Beebe Healthcare.

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 1854**

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 C-5 SERVICE/LIMITED MANUFACTURING DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.306 ACRES, MORE OR LESS" (Change of Zone No. 1854) filed on behalf of Ferguson Enterprises, Inc. (Tax I.D. No. 334-5.00-139.00) (911 Address: 32359 Lewes-Georgetown Highway, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on August 9, 2018 at which time action was deferred. On August 23, 2018, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated August 9 and 23, 2018.)

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

The Council found that Jim Fuqua, Attorney, was present with Dave Jemo of Ferguson Enterprises and David Kuklish of Bohler Engineering. They stated that this is an application is to rezone 5.31 acres of a 6.76 acre parcel to C-5 and that the 1.3 acres will remain AR-1; that the home located on the site will be subdivided into a separate lot; that the property was originally zoned commercial and was downzoned due to the owner's concern about higher taxes; that the property is surrounded by commercial property; that

**Public
Hearing/
CZ 1854
(continued)**

the Applicant is proposing the construction of a new building on the site for a HVAC facility (combination warehouse and distribution center); that there are no wetlands on the site; that DelDOT did not require a Traffic Impact Study (TIS), however, if a future activity is proposed for the rear area of the site, DelDOT will determine if a TIS is required; that the Applicant will comply with DelDOT entrance and roadway requirements; that the site will be served by Sussex County sewer and water will be provided by an on-site well; that stormwater and erosion and sediment control will be designated and operated in accordance with applicable State and County requirements, using Best Management Practices; that the site is designated as Investment Level 1 and 2 Areas by the Strategies for State Policies and Spending; that the site is located in two “growth areas”, the Environmentally Sensitive Development Area and the Highway Commercial Area which are areas mainly located along highways that are appropriate for larger scale commercial uses; that the entrance to the site will be from Route 9; and that neighbors had expressed concerns about lighting and a lighting plan was submitted to a representative of the neighbors.

Public comments were heard.

Dan Donohue spoke in support of the application.

There were no public comments in opposition to the application.

The Public Hearing and public record were closed.

**M 488 18
Adopt
Ordinance
No. 2598/
CZ 1854**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2598 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-5 SERVICE/LIMITED MANUFACTURING DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.306 ACRES, MORE OR LESS" (Change of Zone No. 1854) filed on behalf of Ferguson Enterprises, Inc.

Motion Adopted: 5 Yeas.

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

**Draft
Ordinance
Relating to
the C-4
District**

Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, presented a draft ordinance amending the Code relating to the C-4 ‘Planned Commercial’ District. It was noted that minor revisions are necessary to allow its use and implementation to occur, including minimum lot sizes and types and percentages of residential use permitted in the district.

- Introduction of Proposed Ordinance** Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLE XID, SECTIONS 115-83.26, 115-83.27, 115-83.31 AND “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV”
The Proposed Ordinance will be advertised for Public Hearing.
- 2018 Council Schedule** Mr. Lawson presented the remainder of the 2018 County Council schedule for Council’s consideration and reviewed the projected work items that need to be covered by the end of the year.
- Board of Adjustment** Mr. Lawson reported on the Board of Adjustment membership.
- M 489 18 Approve Reappointment to Board of Adjustment** A Motion was made by Mr. Wilson, seconded by Mr. Cole, that the Sussex County Council approves the reappointment of Brent Workman (District 2) to the Board of Adjustment, effective immediately, until such time as his term expires in June 2021.
Motion Adopted: 5 Yeas.
Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea
- Administrator’s Report** Mr. Lawson read the following information in his Administrator’s Report:
- 1. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County**
The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet September 17th at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. Barbara Fitzgerald, Supervisor of the Georgetown office of Catholic Charities, will be speaking on “*Delaware’s Low-Income Home Energy Assistance Program.*” The Conference Planning Subcommittee will also meet at 11:30 a.m. to discuss planning for the conference scheduled for May 9, 2019. A copy of the agenda for each meeting is attached.
 - 2. Ellendale Water District Referendum**
A referendum for the Ellendale Water District will be held on Saturday, September 15th, from 9:00 a.m. until 1:00 p.m. at the Philadelphia Pentecostal Holiness Church in Ellendale.
 - 3. Delaware State Police Activity Report**
The Delaware State Police year-to-date activity report for August 2018 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding

Administrator's Report (continued)

arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 195 troopers assigned to Sussex County for the month of August.

4. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, The Estuary - Pump Station & Force Main and Seagrove (AKA Harlton) – PS & FM - Phase 1B, received Substantial Completion effective August 20th and August 21st, respectively.

5. Sussex County Council Workshop

Sussex County Council will host a joint workshop with the Sussex County Planning and Zoning Commission on Tuesday, September 18, 2018, at 1:30 p.m. at the Sussex County Administrative Offices West Complex located at 22215 North DuPont Boulevard in Georgetown. The workshop will focus on matters related to the County's requirements for tidal and non-tidal buffers.

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

Quarterly Pension Update

Mrs. Jennings presented a quarterly pension update including a performance summary and a contribution recommendation for the additional \$10 million in the FY 2019 Budget.

Performance Summary – The market value for the Pension Fund at the end of the Second Quarter was \$94,793,852; the Second Quarter return was 1.4% and the One Year return was 7.9%. There has been a decrease in management fees resulting in a savings to the County in the amount of \$180,000 per year. The market value for the OPEB Fund at the end of the Second Quarter was \$43,212,978; the Second Quarter return was 1.1% and the One Year return was 7.1%. All active managers out-performed their benchmarks and both funds performed above average in comparison to 200+ peers.

Mrs. Jennings reported that the Pension Committee recommended allocating the \$10 million in the FY 2019 Budget based off of the Investment Policy Statement previously approved (no new managers and no new allocation percentages).

M 490 18 Deposit Pension Contribution

A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council, based on the recommendation of the Pension Committee and Marquette Associates, directs the Finance Director to deposit the additional \$10 million contribution to the Pension Fund based on the current Investment Policy Statement.

**M 490 18
(continued)**

Motion Adopted: 5 Yeas.

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

**Old
Business/
CU 2129**

Under Old Business, the Council considered Conditional Use No. 2129 filed on behalf of Brian P. Lessard, Lessard Builders, Inc.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 24, 2018 at which time action was deferred. On June 14, 2018, the Commission recommended approval, with conditions.

(See the minutes of the Planning and Zoning Commission dated May 24 and June 14, 2018.)

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

Mr. Moore reported that Mr. Burton has questioned some issues raised by surrounding property owners. Mr. Moore noted that this is a very unique circumstance: the Planning and Zoning Commission held a Public Hearing and did not make a decision on the date of the Public Hearing; then the County Council held its Public Hearing and action was deferred and the record was closed; and then the Planning and Zoning Commission made a recommendation. Thereafter, some landowners got together after the recommendation of the Planning and Zoning Commission and came up with an agreement; however, that discussion and agreement is not reflected in the decision of the Commission.

Mr. Moore advised that the Council cannot get into the issue of the landowner agreement and the discussions since it came after the record was closed. The Applicant's Attorney has requested that the record be reopened for a very specific and limited purpose to have the Council consider a substitute Condition J and for the introduction of information concerning the landowner discussions and agreement that took place. Mr. Moore advised that since this is such a unique circumstance, it would be appropriate to have the record reopened for that limited purpose. He noted that the application would have to be re-advertised and placed on the County Council's agenda (the application would not have to go back to the Planning and Zoning Commission) for the purpose of having the information in the record prior to a vote; public comment would be allowed on that limited purpose only.

**M 491 18
Reopen
Public
Record/
CU 2129**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to reopen the public record on Conditional Use No. 2129 filed on behalf of Brian P. Lessard, Lessard Builders, Inc. for the very specific and limited purpose of having the Council consider a substitute Condition J and for the introduction of the information concerning the landowner discussions and agreement that took place.

**M 491 18
(continued)**

Motion Adopted: 5 Yeas.

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

**Old
Business/
CU 2130**

The Council considered Conditional Use No. 2130 filed on behalf of The Evergreene Companies, LLC (Pallots Corner).

The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2018 at which time action was deferred. On June 28, 2018, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated June 14 and 28, 2018.)

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

On July 24, 2018, the Council deferred action for additional information from the Engineering Department. On August 21, 2018, the Council deferred action again for information on the density of applications approved in the last few years.

Ms. Cornwell reported that staff found three applications approved in the area since 2008 and a map was presented showing the location and density of the projects.

Mr. Moore commented on the preparation of proposed conditions and findings of fact.

**M 492 18
Defer
Action/
CU 2130**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to defer action on Conditional Use No. 2130 filed on behalf of The Evergreene Companies, LLC (Pallots Corner).

Motion Adopted: 5 Yeas.

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

**Old
Business/
Proposed
Ordinance/
Special
Events**

Under Old Business, the Council discussed the Proposed Ordinance relating to Special Events. Todd Lawson, County Administrator; Vince Robertson, Assistant County Attorney; Janelle Cornwell, Planning and Zoning Director, and Glenn Marshall of Emergency Medical Services highlighted the updates and described the changes to the introduced ordinance and the Sussex County Special Event & Public Safety Services Policies and Procedures. The Proposed Ordinance, the Policies and Procedures, and the Online Web Portal were discussed. It was noted that the revisions include the following: confirms the County is not going to govern events that are

**Old
Business/
Proposed
Ordinance/
Special
Events
(continued)**

consistent with the permitted use of a property (i.e. fire halls, VFWs, American Legions, etc.); confirms that the County is not going to govern events that occur on land owned by the United States of America, the State of Delaware, Sussex County, municipalities, and schools; places in list for the examples of items to be considered by the Director rather than including them in the body of the paragraph; confirms that any event, regardless of size, location, use, or duration, will need to coordinate with Sussex County over public safety coverage; and incorporates by reference the Sussex County Special Event & Public Safety Services Policies and Procedures, which gives details on the implementation of the ordinance. It was noted that the new Sussex County Special Event & Public Safety Services Policies and Procedures is a complete re-work of the policy document currently in use. The content of the application and the application process were discussed at length. Mr. Lawson advised that Motions relating to the Proposed Ordinance will be drafted for the Council's consideration at the September 18, 2018 meeting.

**Base
EJCDC
Agreement
for Pro-
fessional
Environ-
mental
Services**

Hans Medlarz, County Engineer, presented for Council's consideration a Base Engineering Agreement with Rummel, Klepper & Kahl, LLP (RKK) for Professional Environmental Services – Inland Bays and the Sussex County portion of the Chesapeake Bay Watersheds. Mr. Medlarz stated that the Engineering Department is requesting approval of the base contract with RKK for a five (5) year term, in conjunction with an initial task order on a time and materials basis, in the amount not to exceed \$250,000.00 for professional engineering services, including survey, planning, drafting County Code for programmatic governance, environmental assessment and remediation, science-based development of nutrient loading baselines, engineering design of water quality as well as runoff reduction projects, programmatic assistance in setting up stormwater management districts and/or stormwater management banking in the Inland Bays and the Sussex County portion of the Chesapeake Bay Watersheds and developing Banking and Management Offset District(s) regulatory framework, transaction documentation and accounting processes and identify responsibilities of the Sussex Conservation District as well as DNREC within the overall governance.

**M 493 18
Base
EJCDC
Agreement
for Pro-
fessional
Environ-
mental
Services
(continued)**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that the Base EJCDC Agreement with Rummel, Klepper & Kahl, LLP be approved, along with an initial Task Order not to exceed \$250,000.00 for Professional Environmental Services in the Inland Bays and the Sussex County portion of the Chesapeake Bay Watersheds.

Motion Adopted: 5 Yeas.

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

**Delaware
CIB
Funding
Application**

Mr. Medlarz referenced the long standing relationship of the County and the Delaware Center for the Inland Bays (CIB) with regards to the James Farm Ecological Preserve and detailed the Engineering Department's recommendation to adopt a draft Resolution to apply for an ORPT (Outdoor Recreation, Parks and Trails) grant in the pre-approved amount of \$75,000.00 for James Farm Ecological Preserve trailhead improvements detailed in Phase 1 of the Preserve's Master Plan. It was noted that the County, as a government agency, is a sponsor (only) of the funding application; the matching funds will come from the CIB.

**M 494 18
Approve
Submission
of CIB
Funding
Application
and Adopt
R 013 18**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the submission of an application to DNREC for an ORPT grant in the amount of \$75,000.00 and Adopts Resolution No. R 013 18 entitled "TO SUBMIT A REQUEST TO THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL'S (DNREC) OUTDOOR RECREATION, PARKS AND TRAILS (ORPT) PROGRAM FOR A 50% MATCHING GRANT TO FINANCE THE PHASE I CONSTRUCTION OF THE JAMES FARM ECOLOGICAL PRESERVE MASTER PLAN".

Motion Adopted: 5 Yeas.

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

**Concord
Road
Utility
Upgrade/
Change
Order**

Mr. Medlarz presented Change Order No. 2 in the amount of \$14,490.60 to the Concord Road Utility Upgrade Project, Contract #15-03. The Change Order involves three separate items with the first two being associated with the Sussex County Sewer Project (additional maintenance of traffic requiring additional paving and a sewer lateral to be moved) and the last one being associated with the Town of Blades Water Project (already approved by the Town Council).

**M 495 18
Approve
Change
Order/
Concord
Road
Utility
Upgrade**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that Change Order No. 2 for Contract #15-03, Concord Road Utility Upgrade – Expansion of the Blades Sanitary Sewer District be approved, which increases the contract amount by \$14,490.60 for a new total of \$2,450,049.46.

Motion Adopted: 5 Yeas.

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

**King Farm
Boulevard
Phase I
Project**

Mr. Medlarz reported that the Engineering Department recommends granting Substantial Completion and Final Acceptance for the King Farm Industrial Park Boulevard, Phase 1. The construction project received a

King Farm Project (continued) **final inspection on December 20, 2017 and a punch list was provided; however, completion of the items was repeatedly delayed by weather but is now fully complete.**

M 496 18 Grant Final Acceptance of King Farm Boulevard Phase I Project **A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Final Acceptance for Contract #17-15, King Farm Industrial Park Boulevard, Phase 1, be granted effective December 20, 2017, and any held retainage be released in accordance with the contract documents.**

Motion Adopted: 5 Yeas.

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

Grant Request **Mrs. Jennings presented a grant request for the Council's consideration.**

M 497 18 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,500.00 from Mr. Vincent's Councilmanic Grant Account to the Nanticoke River Arts Council for operating costs.**

Motion Adopted: 5 Yeas.

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

M 498 18 Recess and Go Into Executive Session **At 4:26 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to recess the Regular Session and go into Executive Session.**

Motion Adopted: 5 Yeas.

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

Executive Session **At 4:27 p.m., an Executive Session of the Sussex County Council was held in the Council Chambers for the purpose of discussing matters relating to Pending/Potential Litigation. The Executive Session concluded at 4:35 p.m.**

M 499 18 Come Out of Executive Session **At 4:35 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to come out of Executive Session and reconvene the Regular Session.**

Motion Adopted: 5 Yeas.

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

Action **There was no action taken on Executive Session matters.**

M 500 18 **A Motion was made by Mr. Arlett, seconded by Mr. Burton, to adjourn at**
Adjourn **4:36 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.}