

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 18, 2018**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 18, 2018, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>George B. Cole</b>	<b>Vice President</b>
<b>Robert B. Arlett</b>	<b>Councilman</b>
<b>Irwin G. Burton III</b>	<b>Councilman</b>
<b>Samuel R. Wilson Jr.</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore Jr.</b>	<b>County Attorney</b>

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

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 501 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 September 11, 2018 were approved by consent.**

**M 502 18  
Approve  
Consent  
Agenda  
Items**

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

- 1. Wastewater Agreement No. 1042-3  
Sussex County Project No. 81-04  
Truitt Homestead – Phase 2 (Construction Record)  
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**
- 2. Wastewater Agreement No. 1011-3  
Sussex County Project No. 81-04  
Saddle Ridge – Phase 2  
Goslee Creek Planning Area**

**Motion Adopted: 5 Yeas.**

**M 502 18  
(continued)**

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

**Response to  
Delaware  
Coalition  
for Open  
Government**

**Mr. Lawson referenced the letter from the Delaware Coalition for Open Government regarding the many issues raised in their correspondence focused on the Board of Adjustment. Mr. Lawson reviewed the draft response letter that was written in coordination with the County's legal staff which addresses the following topics raised by the Coalition: accessibility to the Board's key documents in a usable format, lack of public input to the Board's operation during a meeting, no administrative mechanism for opponents of cases brought to the Board to challenge Board decisions, and the Board not properly administering oaths and affirmations in obtaining testimony in cases. Specifically discussed were issues relating to Findings of Fact, general/public comments, appeal period, oaths and affirmations, and rules.**

**Questions were raised about the appeal process. Jamie Sharp, Assistant County Attorney, discussed appeals (to a Board of Adjustment decision) that go to Superior Court and appeals that go to the County. Appeals that go the Court must meet a 30-day time period and do not stay the applicant from acting on the Board's decision; however, applicants can proceed at their own risk. Appeals (for re-hearing or re-argument) that go to the Board of Adjustment must be made within a 10-day time period following the posting of Findings of Fact; appeals must meet certain criteria. Mr. Cole recommended that full disclosure be provided regarding the appeal process.**

**Adminis-  
trator's  
Report**

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

**1. "Stockings for Soldiers"**

**Sussex County government is again joining Sussex County Volunteer Delaware 50+ and the State Office of Volunteerism in collecting donated items for deployed servicemen and women who are serving during the holidays. A donation box for "Stockings for Soldiers" has been placed in the County Administrative Offices building and includes a shopping list for deployed men and women, as well as our K9 soldiers. Donations to the County's box will be accepted up to October 31<sup>st</sup>. The public along with County employees are encouraged to join in and give back to the men and women (and K9s) who serve our country.**

**2. Projects Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Truitt Homestead - FM & PS - Phase 1B (Construction Record), Oak Creek - Phase 2 (a/k/a Sawgrass North), and Oak Creek - Phase 3 (a/k/a Sawgrass North), effective September 10<sup>th</sup>; and The Overlook (aka Bayville Pointe), Phase**

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

**4, effective September 12<sup>th</sup>.**

**3. Richard "Norris" Derrickson**

**It is with sadness that we note the passing of County pensioner Richard "Norris" Derrickson on Sunday, September 9<sup>th</sup>. Mr. Derrickson began his career with Sussex County in April 1978 and retired from the South Coastal Regional Wastewater Facility as a Communication Supervisor in January 2009 with over 30 years of service. We would like to extend our condolences to the Derrickson family.**

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

**Sussex  
Fire &  
Ambulance  
Companies  
Radio  
Issue**

**Joe Thomas, Director of Emergency Operations, reported on a potential radio issue involving the emergency 800 MHz radio system used by emergency responders in Sussex County and Maryland. Sussex County Emergency Operations Center was notified of an issue that has surfaced as a result of Wicomico and Worcester counties switching to new public safety radio systems with Phase 2 programming. Mr. Thomas reported that several Sussex Fire Departments that border these Maryland counties need access to these radio systems for daily mutual aid responses. Delaware radio systems have Phase 1 programming instead of Phase 2 programming; the solution to this issue is for the Delaware radios to be upgraded with a flash kit to the Phase 2 programming at a cost of approximately \$76,000. Mr. Thomas reported that Delaware Emergency Management Agency is proposing to fund this project in the approximate amount of \$75,000. No action was required on this date due to DEMA's funding offer.**

**Online  
Map  
Presenta-  
tion**

**Megan Nehrbas, GIS Manager, and Joel Marshall, GIS Programmer, presented the new version of the online mapping viewer which includes enhancements and updated functionality. Highlights include the following:**

- compatibility across all platforms on mobile devices (both tablet and handheld friendly)**
- new search capabilities including searching parcels by subdivision and searching addresses by Tax ID, and searching addresses by Tax ID including with an assessment unit number**
- new printing layouts and formats**
  - only get the information in the legend that is relevant to the mapping selections and the layers that are turned on versus the blanket template**
  - the attribute information displayed on the map shows up on the layout as well**

**Ms. Nehrbas also reviewed updates to the sewer maps; the updated functionality is a result of the full conversion from CAD to GIS.**

**Herring  
Creek Area  
Expansion  
Phase III/  
General  
Obligation  
Bond  
Funding  
and USDA  
Funding**

Hans Medlarz, County Engineer, reported that on July 9, 2016, the voters of the proposed Herring Creek Sewer Area approved the sewer district expansion. On August 2, 2016, the Council issued a determination and officially created the Herring Creek Area Expansion of the Sussex County Unified Sanitary Sewer District. On March 20, 2017, the Finance Department filed an overall funding application for approximately \$20,500,000 with USDA/Rural Development, Rural Utility Service. Due to the size of the project, USDA approached the County with a phasing plan (three phases). On June 21, 2017, the County accepted the letter of conditions and the obligating document associated with Phase 1 in the amount of \$4,287,000 of loan and \$990,000 of grant funding. On January 30, 2018, Council approved the USDA Loan Resolution for Phase 1 and introduced the associated ordinance which was heard and approved by Council on March 13, 2018. On June 8, 2018, the County accepted the letter of conditions and the obligating document associated with Phase 2 in the amount of \$5,600,000 of loan and \$1,899,000 of grant funding. On June 19, 2018, Council approved the USDA Loan Resolution for Phase 2 and introduced the associate ordinance which was heard and approved by Council on July 17, 2018. On August 2, 2018, the County accepted the letter of conditions and the obligating document associated with Phase 3 in the amount of \$5,601,000 of loan and \$1,900,000 of grant funding. The Finance and Engineering Departments recommend approval of the USDA Loan Resolution for Phase 3 and introduction of the associated ordinance authorizing the issuance of up to \$5,601,000 of general obligation bonds of Sussex County in connection with the construction and equipping of Phase 3 of the Herring Creek Area Expansion of the Unified Sanitary Sewer District.

**M 503 18  
Authorize  
USDA  
Loan  
Resolution**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, based upon the recommendation of the Engineering and Finance Departments, that the USDA Loan Resolution authorizing supplemental indebtedness for the Herring Creek Area Expansion Project, Phase III, be approved.

**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  
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$5,601,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO HERRING CREEK AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

**The Proposed Ordinance will be advertised for Public Hearing.**

**James Farm Master Plan Implementation/ Bid Results** Mr. Medlarz presented the bid results for the James Farm Master Plan Implementation, Phase I, Cedar Neck Road Entrance, Contract C19-02A. Three bids were received and the low bidder was Gateway Construction Inc. in the bid amount of \$97,597.50. The Engineering Department recommends awarding the project to Gateway Construction, Inc. If approved, the Engineering Department will be providing construction management services. Mr. Medlarz reported that one-half of the funding is State funding and the other half of the funding was included in the FY 2018 Budget.

**M 504 18 Award Bid/ James Farm Master Plan Implementation** A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Contract C19-02A, James Farm Master Plan Implementation, Cedar Neck Road Entrance work, be awarded to Gateway Construction for the low bid price of \$97,597.50.

**Motion Adopted:** 4 Yeas, 1 Nay.

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

**Plantation Road Expansion/ Request to Post Notices** John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Plantation Road Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). The expansion was requested by Davis Bowen & Friedel on behalf of their clients, LMHT, LLC for Parcel 334-12.00-37.01. Mr. Ashman reported that the Engineering Department would like to include Parcel 57.02 (EMS Station) as part of the expansion.

**M 505 18 Post Notices/ Plantation Road Expansion** A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the Engineering Department is authorized to prepare and post notices for the Plantation Road Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area), as presented.

**Motion Adopted:** 5 Yeas.

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

**Old Business/ CU 2127** Under Old Business, the Council discussed Conditional Use No. 2127 filed on behalf of Wine Worx, LLC, a request for an event venue at a farm winery. The Planning and Zoning Commission held a Public Hearing on this application on May 10, 2018 at which time action was deferred. On May 24, 2018, the Commission recommended approval with the following conditions:

**Old  
Business/  
CU 2127  
(continued)**

- A. All events shall end no later than 10:30 p.m. and clean up may occur after 10:30 p.m.**
- B. Food and beverage service and music or similar entertainment is permitted.**
- C. As stated by the Applicant, there shall be no more than 200 people at any event.**
- D. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County roads.**
- E. All entrance locations shall be subject to the review and approval of DelDOT.**
- F. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**The Council held a Public Hearing on this application on June 5, 2018 at which time action was deferred.**

**M 506 18  
Amend  
Conditions/  
CU 2127**

**A Motion was made by Mr. Cole, seconded by Mr. Burton, to delete Conditions A through F (recommended by the Planning and Zoning Commission) in their entirety and the following instituted in their place:**

- A. Events shall be strictly limited to the front portion of the parcel commencing at Blackwater Road (County Road 384) and running approximately 1228.94 feet. No events shall be permitted in the back portion of the parcel.**
- B. Events shall be limited to Fridays and Saturdays only. All events shall end no later than 10:00 p.m.**
- C. Food and beverage service and music or similar entertainment is permitted in conjunction with permissible agritourism activities and in compliance with the Sussex County Code.**
- D. Certain agritourism activities such as “barn parties and farm festivals” as set forth in 9 Del. C. §306(a) are permitted. Concerts shall be prohibited.**
- E. All activities on the premises shall comply with Fire Marshal, parking capacity and general permitting requirements.**
- F. Applicant shall be required to obtain a Fire Marshal rating for the building in which the events are held. Applicant shall comply with the Fire Marshal’s determination of the maximum number of persons allowed on the premises at any given time, but, in no event shall there be more than 200 people at any event.**
- G. Parking shall be in compliance with the Sussex County Code. All parking areas shall be generally shown on the Final Site Plan. No parking shall be permitted on any nearby County roads.**
- H. All entrance locations shall be subject to the review and approval of DelDOT.**
- I. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**Request to  
Defer**

**Mr. Arlett stated that he would like to defer action on this matter for one week so that he can review the record of the public hearing.**

**Motions  
Withdrawn**

**Mr. Cole and Mr. Burton withdrew their Motions.**

**M 507 18  
Defer  
Action on  
CU 2127**

**A Motion was made by Mr. Arlett, seconded by Mr. Burton, to defer action for one week on Conditional Use No. 2127 filed on behalf of Wine Worx, LLC.**

**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/  
Special  
Events  
Ordinance**

**Under Old Business, the Proposed Ordinance relating to Special Events was discussed.**

**The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on October 26, 2017. The Commission recommended withdraw of the Proposed Ordinance.**

**The County Council held a Public Hearing on this application on January 16, 2018 after which the record remained open for 30 days.**

**County Council discussed the Proposed Ordinance on September 11, 2018 and amendments were proposed on that date.**

**Mr. Lawson, along with Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, presented the Proposed Ordinance, with amendments, for Council's consideration. It was noted that at the September 11, 2018 meeting, the following was presented: proposed amendments to the Special Events Ordinance, a new Special Event & Public Safety Services Policies and Procedures, and a new Special Events Application.**

**Mr. Robertson reviewed revisions to the Proposed Ordinance which included the following: confirms the County is not going to govern events that are 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 form 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.**

**M 508 18**

**A Motion was made by Mr. Arlett, seconded by Mr. Burton, that the Sussex County Council amend the "Special Events" Ordinance to**

**M 508 18  
Amend  
Special  
Events  
Ordinance  
(continued)**

**address many of the comments that were received at the public hearings on the Ordinance; and**

**during the public hearings, the public expressed concern about how special events would be treated on certain locations; and**

**these proposed amendments confirm that events are permitted on properties where the type of event is typical for that type of property; examples include events and gatherings at fire halls, VFWs and American Legions, fraternal organizations, churches and similar organizations; and**

**the proposed amendments also clarify that no review by one Planning and Zoning staff is required for lands owned by the United States, the State of Delaware, municipalities, or educational institutions; those types of events would still be subject to the County Policy regarding County EMS coverage; and**

**the public also said that the Ordinance could have been more clearly drafted; the proposed amendments reorganize some of the Ordinance wording, and place the criteria that the Planning and Zoning Director can consider into a list form; and**

**Council has had concerns about what should happen if an event coordinator does not comply with the County's Special Event & Public Safety Services Policies and Procedures; the proposed amendments add a sentence to confirm that the County has the ability to terminate an administrative approval if the policies are not followed;**

**for these reasons and others stated in the record, the "Special Events" Ordinance shall be amended by replacing the introduced wording in lines 40-69 Section 1 regarding §115-20A(13), lines 112-141 of Section 4 regarding §115-69A(27); lines 169-198 of Section 6 regarding §115-77A; lines 231-260 in Section 8 regarding §115-83.2A; and lines 297-326 in Section 10 regarding §115-85A with the following inserted language:**

*Special events held outdoors or within a temporary structure for a purpose different from the permitted use and usual occupancy of a premises or site that are administratively approved by the Director or his or her designee, when the event: will not impair the purpose and intent of the zoning ordinance; is not so recurring in nature as to constitute a permanent use not otherwise permitted in the district; and will not significantly affect the surrounding properties. Events that are consistent with the permitted use and usual occupancy of a site or that occur on land owned by the United States of America, the State of Delaware, Sussex County, Municipalities and Educational Institutions are permitted. "Special events" include circuses, carnivals, midways, promotional and tent sales events, fairs, festivals, concerts, rodeos, shows, races/walks or any other event or mass gathering.*



**M 508 18  
Amend  
Special  
Events  
Ordinance  
(continued)**

*No more than three (3) special events shall be approved for the same property or premises during a calendar year. Each special event shall be counted as one (1) calendar day, not including reasonable set up and removal time when the event is not otherwise underway.*

*In determining whether to administratively approve a special event, the Director or his or her designee shall consider the following:*

- a) the estimated number of attendees;*
- b) the size of the parcel where the special event is to be located;*
- c) the parking requirements of the special event;*
- d) roads and traffic patterns providing access to the special event;*
- e) prior events conducted by the applicant;*
- f) noise, light, odor and dust generated by the special event;*
- g) proposed hours of operation and number of consecutive days; and*
- h) such other considerations that may be applicable to the requested event.*

*The Director or his or her designee may impose conditions upon an administrative approval.*

*All special events, regardless of size, location, use or duration, shall be subject to the requirements of the Sussex County Special Event & Public Safety Services Policies and Procedures. Failure to abide by the Sussex County Special Event & Public Safety Services Policies and Procedures may result in the termination of the special event's administrative approval.*

*Special events that do not meet these requirements or which are not administratively approved shall require a conditional use.*

**Motion Adopted: 5 Yeas.**

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

**M 509 18  
Defer  
Action  
/  
Motion  
Denied**

**A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to defer action for two weeks on the Proposed Ordinance relating to Special Events.**

**Motion Denied: 4 Nays, 1 Yea.**

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

**M 510 18  
Adopt  
Ordinance  
No. 2599**

**A Motion was made by Mr. Cole, seconded by Mr. Burton, to Adopt Ordinance No. 2599 entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, VI, X, XI, XIA,**

**M 510 18  
Adopt  
Ordinance  
No. 2599  
(continued)**

**AND XII BY AMENDING SECTIONS §§115-20, 115-22,115-39, 115-69, 115-71, 115-77, 115-79, 115-83.2, 115-83.5, 115-85 AND 115-87 TO AMEND AND CLARIFY CERTAIN SHORT-TERM “SPECIAL EVENTS” AS PERMITTED USES IN THE AR-1, GR, B-1, C-1, CR-1 AND M DISTRICTS”, as amended.**

**Motion Adopted: 3 Yeas, 2 Nays.**

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

**Con-  
tinuation  
of Public  
Hearing/  
Forested  
and/or  
Land-  
scaped  
Buffers  
Ordinance**

**The Public Hearing was continued 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. On September 13, 2018, the Commission recommended denial.**

**The County Council held a Public Hearing on this application on September 11, 2018 at which time the Public Hearing was continued until September 18, 2018 (for written comments and for anyone to speak that did not speak on September 11, 2018).**

**Janelle Cornwell, Planning and Zoning Director, reported that 12 additional letters/emails have been received in support of the Proposed Ordinance and 1 letter/email has been received expressing concern about the Proposed Ordinance.**

**Public comments were heard.**

**David Johnson raised questions regarding this Public Hearing on one form of buffers and the buffer workshop scheduled on this date for another form of buffers.**

**Terry August, Gail Van Gelder, Jeanette Akhter, Keith Steck, and Maryanne Ennis spoke in support of the Proposed Ordinance. They stated that increasing the buffer between subdivisions will maintain and enhance the rural character of the County; that there are benefits to protecting and preserving buffers with established trees; that trees provide protection during weather events; that buffers provide more privacy and security between subdivisions; that buffers add value to land and home ownership; that more trees are needed to offset impervious surfaces; that buffers are good for watershed protection and habitat protection; that greenspace is needed; and that the expansion of buffers will benefit farmers.**

**Public  
Hearing  
(continued)**

**Mr. Johnson submitted photos of the Red Fox Run area into the record.**

**Charlie Timmons (representing the Associated Builders and Contractors Delaware Chapter), requested that the County do due diligence on ordinances relating to buffers or density calculations and stated that the organization is willing to offer members to advise and provide expertise on these topics.**

**There were no additional public comments.**

**Public  
Hearing  
Closed**

**The Public Hearing and public record were closed.**

**No action was taken.**

**Introduction  
of Proposed  
Ordinances**

**Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL ESTATE AND INVESTING OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.5005 ACRE, MORE OR LESS” (Conditional Use No. 2153) filed on behalf of Cassandra Toroian (Tax I.D. No. 334-13.00-181.00) (911 Address: 35568 Airport Road, Rehoboth Beach).**

**Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 158.75 ACRES, MORE OR LESS” (Conditional Use No. 2155) filed on behalf of Stockley Materials, LLC (Tax I.D. No. 231-6.00-21.00 and 22.01) (911 Address: None Available).**

**Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.194 ACRES, MORE OR LESS” (Change of Zone No. 1869) filed on behalf of WMF Watercraft and Marine (Tax I.D. No. 234-34.08-45.00) (911 Address: 32676 Oak Orchard Road, Millsboro).**

**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 C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10.001 ACRES, MORE OR LESS” (Change of Zone No. 1870) filed on behalf of**

(continued) **Coroc/Rehoboth III, LLC (Tax I.D. No. 334-13.00-325.36) (911 Address: None Available).**

**Council Members' Comments**      **Council Members' Comments**

**Mr. Arlett acknowledged Delaware's First Responders that have travelled to North Carolina to assist with hurricane relief efforts.**

**M 511 18 Recess/ Go Into Executive Session**      **At 12:26 p.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to recess and go into Executive Session to discuss matters relating to pending/potential litigation and land acquisition.**

**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 12:28 p.m., an Executive Session of the Sussex County Council was held to discuss matters relating to pending/potential litigation and land acquisition. The Executive Session concluded at 1:26 p.m.**

**M 512 18 Reconvene Regular Session**      **At 1:28 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.**

**Motion Adopted:    3 Yeas, 2 Absent.**

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

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

**M 513 18 Recess**      **At 1:29 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to recess (to travel to the West Complex where the Buffer Workshop will be held).**

**Motion Adopted:    3 Yeas, 2 Absent.**

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

**M 514 18 Reconvene**      **At 1:45 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to reconvene.**

**Motion Adopted:    4 Yeas, 1 Absent.**

**M 514 18  
(continued)**

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

**Buffer  
Workshop**

**A Buffer Workshop was held with the Planning and Zoning Commission.**

**The following were in attendance:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>George B. Cole</b>	<b>Vice President</b>
<b>Robert B. Arlett</b>	<b>Councilman</b>
<b>Irwin G. Burton III</b>	<b>Councilman</b>
<b>Samuel R. Wilson Jr.</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Janelle Cornwell</b>	<b>Planning and Zoning Director</b>
<b>Hans Medlarz</b>	<b>County Engineer</b>
<b>J. Everett Moore Jr.</b>	<b>County Attorney</b>
<b>Vince Robertson</b>	<b>Assistant County Attorney</b>
<b>Robert Wheatley</b>	<b>Planning and Zoning Commission</b>
<b>Kim Hoey Stevenson</b>	<b>Planning and Zoning Commission</b>
<b>Holly Wingate</b>	<b>Planning and Zoning Commission</b>
<b>Chris Bason</b>	<b>Center for the Inland Bays</b>

**Mr. Lawson stated that the purpose of the workshop was to discuss tidal and non-tidal wetlands buffers. The discussion included current buffer requirements, buffer regulations, and wetlands examples.**

**At the conclusion of the workshop, it was noted that action points will be developed to provide a summary of the discussions held during the workshop. Those action points include the following:**

- **The Code should clearly state that the buffers are outside of any lot lines.**
- **Clarify the “ditch” issue- i.e. that buffer zones are not required by Code from any tax ditch or other manmade body of water.**
- **Reference the CIB’s benefits of buffers:**
  - **Pollution control**
  - **They keep sediments out of the water**
  - **Wildlife**
  - **Sea level rise (“a buffer is a future wetland”)**
- **Correct the current definition of “Buffer Zone” in 115-193 to eliminate the choice (as currently worded) between maintaining “a naturally vegetated area” or creating a new “area established in vegetation”. (Basically require maintaining the current natural buffer.)**
- **Add a requirement that streams and tidal wetlands are non-disturbance areas.**
- **A better buffer plan while still maintaining the economic value of the land.**

**Buffer  
Workshop  
(continued)**

- **Fix the cluster ordinance and the ESDDOZ subdivision design to emphasize buffers in the design of them.**
- **Revisit the open space design requirements of cluster and ESDDOZ subdivisions.**
- **Recognize that there may be a difference between standard (3/4 acre lot) subdivisions and smaller-lot subdivisions.**
- **Incentivize better/bigger buffers and/or better use of open space.**

**M 515 18  
Adjourn**

**A Motion was made by Mr. Arlett, seconded by Mr. Burton, to adjourn at 3:54 p.m.**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**(Mr. Wilson was present during the Workshop but arrived late and left early, as reflected in the votes.)**

**Respectfully submitted,**

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

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

**Note: The audio is of the regular meeting only; the workshop was not recorded.**