

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 19, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 19, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

Call to Order

Mr. Vincent called the meeting to order.

M 443 17 Approve Agenda

A Motion was made by Mr. Cole, seconded by Mr. Arlett, 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**

Procla- mation

A Proclamation entitled "A PROCLAMATION TO DECLARE SEPTEMBER 17-23, 2017 AS CONSTITUTION WEEK" was presented to members of The Major Nathaniel Mitchell Chapter of the Daughters of the American Revolution of Georgetown.

Board of Adjustment Member Bud Rickard

Councilmembers recognized retiring Board of Adjustment member Norman "Bud" Rickard. A Tribute and plaque were presented to Mr. Rickard in recognition of his many years of service to Sussex County.

Minutes

The minutes of August 29, 2017 were approved by consent.

Public Comments

Public Comments

Paul Reiger referenced the September 18, 2017 Board of Adjustment meeting and commented on the Code as it pertains to modular homes in mobile home parks, as well as the Rules of Procedure for the Board.

**Public
Comments
(continued)**

Dan Kramer commented on the agenda item regarding the possible introduction of an ordinance relating to the 2018 Comprehensive Plan.

Dan Acker and Delores Price spoke in support of the Proposed Ellendale Water District.

Roland Moore, Jr. spoke regarding the petition relating to the Proposed Ellendale Water District.

D. J. Hughes commented on the agenda item regarding the updated Henlopen TID scope of work.

**M 444 17
Approve
Consent
Agenda**

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

**Wastewater Agreement No. 476-2
Sussex County Project No. 81-04
Windmill Woods – Phase 2
Millville Expansion of the Bethany Beach Sanitary Sewer District**

**Wastewater Agreement No. 476-3
Sussex County Project No. 81-04
Windmill Woods – Phase 1
Millville Expansion of the Bethany Beach Sanitary Sewer District**

**Wastewater Agreement Nos. 985
Sussex County Project No. 81-04
Coastal Station (AKA Corrado)
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**

**Wastewater Agreement No. 259-2
Sussex County Project No. 81-04
The Reserves - Clubhouse
Ocean View Expansion of the Bethany Beach Sanitary Sewer District**

**Wastewater Agreement Nos. 984-14
Sussex County Project No. 81-04
Coastal Club – Land Bay 2A
Goslee Creek Planning Area**

**Wastewater Agreement No. 1047
Sussex County Project No. 81-04
The Grove
Fenwick Island Sanitary Sewer District**

**Wastewater Agreement Nos. 945-1
Sussex County Project No. 81-04
Plantation Park Marina
Miller Creek Sanitary Sewer District**

**M 444 17
(continued)**

Motion Adopted: 5 Yeas.

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

**Board of
Adjustment
Nomination**

Mr. Lawson reported on a Board of Adjustment member nomination for District 4 and he advised that Mr. Cole has submitted a candidate for consideration – Bruce Mears of Millville. Mr. Mears' resume was distributed to Council members. Mr. Lawson stated that an interview will be scheduled for a future date.

**Oliver's
Point**

Mr. Lawson presented for consideration a Proposed Resolution relating to the naming of Oliver's Point in Summertime Park near Fenwick Island.

**M 445 17
Adopt
Resolution/
Oliver's
Point**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Resolution No. R 023 17 entitled "HONORING MR. OLIVER W. CROPPER OF FENWICK ISLAND FOR HIS MANY YEARS OF PUBLIC SERVICE AND APPROVING THE U.S. BOARD OF GEOGRAPHIC NAMES TO DESIGNATE THE POINT IN SUMMERTIME PARK AS "OLIVER'S POINT".

Motion Adopted: 5 Yeas.

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

**DelDOT
2019-2024
CTP
Request**

Chip Guy, Director of Communications, presented the County's 2019-2024 Capital Transportation Program (CTP) Request which will be submitted to DelDOT. This report highlights the County's long-term infrastructure needs and requests for the State's next capital budget which focuses on major investments such as highways, bridges, and intersection improvements throughout the State. Mr. Guy reviewed the draft CTP Request, noting that this year's request is much the same as last year, with the exception of items removed due to completion of projects and the addition of new projects. The Sussex County 2019-2024 Capital Transportation Program Request will be presented at a Public Hearing on September 27, 2017 at the DelDOT Administration Building in Georgetown.

**Adminis-
trator's
Report**

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

1. Sussex County Comprehensive Land Use Plan Workshop

The Sussex County Planning & Zoning Commission will host the next workshop on the Comprehensive Land Use Plan on Wednesday, September 20, 2017. Discussion will take place regarding various elements of the Comp Plan, and an update on the Conservation Element will be provided. The workshop begins at 9:00 a.m. and will

**Administrator's
Report
(continued)**

take place in the County Council Chambers located on The Circle in Georgetown. The agenda is attached, and public comment will be taken at the end of the meeting.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Ocean View Beach Club – Phase 2B Sewer and The Estuary – Phase 1C-2B (Construction Record) received Substantial Completion effective September 6th and September 12th, respectively.

3. New Security Features and Procedures

Please be advised, the County is taking steps to enhance the security of its buildings and to better protect our staff and customers who occupy and visit our facilities on a daily basis. As such, new security features and procedures are scheduled to begin in both the Sussex County Administrative Offices building and the West Complex. These enhancements include a new screening process in the County Administrative Offices building lobby which will require all visitors entering the lobby to be screened by a magnetometer operated by trained security officers. Additional security features will be installed throughout the buildings as well. The improvements are scheduled to take place in the next few weeks, with full implementation beginning in October. We appreciate the staff's and the public's understanding and cooperation with these new procedures.

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

**Proposed
Ordinance/
EDUs/
Sewer &
Water**

Mrs. Jennings presented a Proposed Ordinance for introduction which would modify Chapter 110 of the Code relating to sewer and water utilities. The Proposed Ordinance, similar to legislation passed at the state level, adds equivalent dwelling units (EDUs) as a method of calculating sewer and water assessments.

**Introduction
of Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 110, SECTION 110-88 OF THE CODE OF SUSSEX COUNTY TO ADD "EQUIVALENT DWELLING UNITS" AS A METHOD OF CALCULATING SEWER OR WATER ASSESSMENTS".

The Proposed Ordinance will be advertised for Public Hearing.

**Rescue One
MOU**

Ed Engdahl, EMS Education Coordinator, presented for Council's consideration a Memorandum of Understanding between Sussex County Emergency Medical Services (EMS) and Rescue One Training for Life, Inc. to become an American Heart Association training site.

- M 446 17**
Approve
MOU
with
Rescue
One
- A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the Sussex County Council approves the Memorandum of Understanding between Sussex County and Rescue One Inc. to become an American Heart Association Training Site.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;**
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea
- Woodland**
School
Restoration
Update &
Lease
Agreement
- Dan Parsons, Historic Planner, presented information on the history of the Woodland School building located at the Woodland Park and the restoration work on the schoolhouse, noting that the first phase has been completed. Mrs. Donna Tate-Steinbiss commented on all the volunteer work that has made this project possible as well as the plans for the restored schoolhouse as an interpretive and education center.**
- Mr. Parsons presented for Council's consideration a Lease Agreement with the Woodland Schoolhouse Association**
- Members of the Woodland Schoolhouse Association were in attendance.**
- M 447 17**
Authorize
Lease/
Woodland
Schoolhouse
- A Motion was made by Mr. Arlett, seconded by Mr. Cole, that Sussex County Council hereby authorizes the lease of a 1/4 acre of the Woodland Park on the site of the Woodland Schoolhouse to the Woodland Schoolhouse Association for an initial term of 10 years, with two five-year renewals, for the express use of restoring the schoolhouse and use for educational purposes.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;**
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea
- Proposed**
Ellendale
Water
District/
Adoption
of Final
Boundary
- John Ashman, Director of Utility Planning, presented for Council's consideration a Proposed Resolution establishing the boundaries of the Proposed Ellendale Water District. He noted that this has been a community-driven effort to establish a water district for the Ellendale Area and the Engineering Department has received the required number of petitions to proceed with the process of establishing a water district. Additionally, a public meeting was held at the Ellendale Fire Hall on August 16, 2017. Following the meeting, the Engineering Department received two requests to opt out of the proposed boundary and the map was adjusted to reflect these exclusions. If approved, the County will contract with Artesian Water Company to supply the water; the estimated average household cost will be \$400.00 per year.**

- M 448 17**
Adopt
Resolution/
Proposed
Ellendale
Water
District
- A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Resolution No. R 024 17 entitled “DISTRICT BOUNDARIES FOR THE PROPOSED ELLENDALE WATER DISTRICT”.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**
- General**
Labor &
Equipment
Contract/
C/O
- Hans Medlarz, County Engineer, presented Change Order No. 7 to the General Labor & Equipment Contract for FY 2018 for budgeted Airport work (pavement restoration, stormwater improvements, and electrical work) and interconnection of the County’s transmission system with Artesian Wastewater Managements’ Stonewater Creek Wastewater Treatment Plan.**
- M 449 17**
Approve
Change
Order/
General
Labor &
Equipment
Contract
- A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Change Order No. 7 for Contract #17-01, FY 18 General Labor & Equipment, be approved, increasing the contract amount by \$771,000.00, for a new total of \$6,740,669.00.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**
- Route 54**
Expansion
of the
FISSD/
Professional
Services
Amendment
- Hans Medlarz, County Engineer, presented for Council’s consideration a Professional Services Amendment with Hazen and Sawyer, for the project known as the Route 54 Expansion of the Fenwick Island Sanitary Sewer District (Exhibit A-3) in an amount not to exceed \$16,191.00. This amendment would cover additional design services for modifications to the alignment, in the vicinity of West Line Road and the western extension in Williamsville, after completion of the original scope of work.**
- M 450 17**
Approve
Amendment
to Route 54
Expansion
of the
FISSD
Project
- A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Exhibit A-3, an amendment for additional design and construction phase services for the Route 54 Sewer Expansion of the Fenwick Island Sanitary Sewer District, in the amount of \$16,191.00, 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**

Delivery of Seed & Chemical/Bid Results **Hans Medlarz, County Engineer, presented the bid results for Project No. 18-06, Wolfe Neck Regional Wastewater Facility, Delivery of Seed and Chemical. Mr. Medlarz reported that three bids were received and that the Engineering Department recommends awarding the project to the low bidder, Growmark FS, LLC in the total amount of \$81,766.46.**

M 451 17 Award Bid/ Delivery of Seed & Chemical **A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that Contract 18-06, Delivery of Seed and Chemical, be awarded to Growmark FS, LLC of Milford, Delaware at the “Schedule A” bid amount of \$81,766.46.**

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 Lease Extension **Patti Deptula, Director of Special Projects, reported that the Delaware Center for the Inland Bays is seeking a long-term extension for the Occupancy Agreement that is currently in place with Sussex County, for the James Farm Ecological Preserve located on Cedar Neck Road. Mrs. Deptula reported on the Master Plan that was completed in 2014 detailing improvements to be constructed at the site to accommodate growth and site visitation. Design work for the first phase was completed in August 2017 and the CIB is seeking funding from public and private entities to construct the Phase 1 improvements; potential funding sources prefer seeing a long-term Lease Agreement in place for assurance that the CIB will continue to occupy the site. Ms. Deptula presented the recommendation for a 20-year term Occupancy Agreement with an automatic renewal for two subsequent five-year terms.**

Additionally, Mrs. Deptula presented a Resolution stating support for the 2017 application for a matching \$85,000.00 grant to DNREC’s Outdoor Recreation Parks and Trails Program. The grant, if awarded, will be used as a partial funding mechanism towards the construction of the Master Plan Phase 1 improvements. The DNREC Grant Committee is asking for a Resolution from the Council to reaffirm support for the proposal; \$65,000.00 has already been approved for the current budget year for this purpose and the CIB will provide the \$20,000.00 towards this match.

Chris Bason, Executive Director, Delaware Center for the Inland Bays, provided an update on the operations and improvements at the James Farm, as well as the opportunities offered for recreation and education.

M 452 17 Approve Occupancy Agreement/ CIB **A Motion was made by Mr. Cole, seconded by Mr. Arlett, that the Sussex County Council approves a 20-year term Occupancy Agreement (with the Delaware Center for the Inland Bays) with an automatic renewal for two subsequent five-year terms.**

**M 452 17
(continued)**

Motion Adopted: 5 Yeas.

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

**M 453 17
Adopt
Resolution/
Delaware
CIB/
James
Farm**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Resolution No. R 025 17 entitled “TO SUBMIT A REQUEST TO THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL’S (DNREC’S) 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: 4 Yeas, 1 Nay.

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

**Mount Joy
Oak Street
SLD**

Patti Deptula, Director of Special Projects, presented the election results for the Proposed Chapter 95 Mount Joy Oak Street Proposed Streetlighting District. The proposed boundaries encompass Parcel Nos. 67 through 71; there are 21 tax parcels within the district boundary and 17 assessable improvements. Mrs. Deptula reported that twelve votes were received in support of the District and 3 votes were received in opposition to the District. She noted that, on August 8, 2017, the Council approved an estimated annual billing rate of \$65.20 for the first year, and an estimated annual billing rate of \$62.26 after the first year, for each assessable residential or commercial improvement within the boundaries of the Proposed Sussex County Chapter 95 Mount Joy Oak Street Streetlighting District.

**M 454 17
Adopt
Resolution/
Mount Joy
Oak Street
SLD**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Resolution No. R 026 17 entitled “A RESOLUTION ESTABLISHING THE MOUNT JOY OAK STREET STREETLIGHTING DISTRICT”.

Motion Adopted: 5 Yeas.

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

**Time
Extension
Request/
C/Z 1747**

Janelle Cornwell, Planning and Zoning Director, presented a request for a time extension for Change of Zone No. 1747 filed on behalf of Oceanside Vista (fka The Preserve at Cedar Landing). The Change of Zone was granted approval by the Council on July 22, 2014 for a MR-RPC for the construction of 45 single family dwellings. Ms. Cornwell reported that the application meets the qualifications for a six month time extension so that

Time Extension Request/ C/Z 1747 (continued)	<p>the project can proceed with construction and establishing that they have the project substantially underway prior to the termination of the six month time extension, if granted. Ms. Cornwell noted that the application was associated with Conditional Use No. 1986, which has expired; the Applicant will be resubmitting a new application for the Conditional Use.</p> <p>Ms. Cornwell reported on the status of agency approvals. Council raised questions as to when the fee-in-lieu with DNREC and the Sussex Conservation District was submitted.</p>
M 455 17 WITH-DRAWN	<p>A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to approve the time extension request.</p> <p>Mr. Arlett withdrew his Second.</p> <p>The Motion failed.</p>
M 456 17 Defer Action on Time Extension Request	<p>A Motion was made by Mr. Burton, seconded by Mr. Arlett, to defer action for one week on the time extension request for Change of Zone No. 1747 filed on behalf of Oceanside Vista (fka The Preserve at Cedar Landing).</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
Proposed Ordinance/ 2018 Comprehensive Plan	<p>Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, presented the Proposed Ordinance relating to the 2018 Comprehensive Plan. Mr. Robertson explained why the Proposed Ordinance is being presented for introduction at this time and noted that its introduction and subsequent public hearings are in accordance with Code.</p> <p>Mr. Robertson explained that the Comprehensive Plan itself is not an ordinance; it is adopted by ordinance. The Comprehensive Plan is governed by Chapter 69 of Title 9 of the Delaware Code. He further explained that this ordinance needs to be adopted so that when the Comprehensive Plan process is completed, the Planning and Zoning Commission and Sussex County Council will need an introduced ordinance to consider.</p>
Introduction of Proposed Ordinance	<p>Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE ADOPTING THE 2018 COMPREHENSIVE PLAN FOR SUSSEX COUNTY AND REPEALING ORDINANCE NO. 1980, THE 2007 UPDATE OF THE COMPREHENSIVE PLAN, ADOPTED JUNE 24, 2008". The Proposed Ordinance will be advertised for Public Hearings.</p>

Henlopen TID Scope of Work	<p>Janelle Cornwell, Planning and Zoning Director, noted that, in April 2017, staff presented the scope of work for the Henlopen TID to look at the boundary and potential future development based on current zoning. The County contracted for this project with AECOM. AECOM previously determined the potential future development within the TID; however, after discussions, it was determined to change the boundary. Ms. Cornwell outlined the change in the boundary and the build-out projection. She noted that the scope of work needs to be expanded. She also noted that it is still a proposed boundary and the new data will be sent to DelDOT to determine what potential road improvements may be needed.</p>
M 457 17 Approve Updated Scope of Work/ Henlopen TID	<p>A Motion was made by Mr. Cole, seconded by Mr. Burton, that the Sussex County Council approves the updated scope of work for AECOM to perform the proposed build-out of development analysis for the Proposed Henlopen TID at a cost not to exceed \$11,500.00.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
Old Business/ CU 2089	<p>The Council considered Conditional Use No. 2089 filed on behalf of Massey's Landing Properties, LLC.</p> <p>The Planning and Zoning Commission held a Public Hearing on this application on July 27, 2017 at which time action was deferred. On August 24, 2017, the Commission recommended that the application be denied.</p> <p>(See the minutes of the Planning and Zoning Commission dated July 27 and August 24, 2017.)</p> <p>The Council held a Public Hearing on this application on August 29, 2017 at which time action was deferred.</p>
M 458 17 Adopt Proposed Ordinance/ CU 2089 DENIED	<p>A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO ORDINANCE NO. 2378 FOR CONDITIONAL USE NO. 1963 FOR A CAMPGROUND TO AMEND CONDITION OF APPROVAL NO. 9 RELATING TO PARKING OF "PARK MODEL RV'S" AND CAMPGROUND FOOD TRAILER(S) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 54.33 ACRES, MORE OR LESS" (Conditional Use No. 2089) filed on behalf of Massey's Landing Properties, LLC.</p> <p>Motion Denied: 4 Nays, 1 Yea.</p>

**M 458 17
(continued)**

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

**Old
Business/
CU 2095**

The Council considered Conditional Use No. 2095 filed on behalf of Sposato Investments, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on July 27, 2017 at which time action was deferred. On August 10, 2017, the Commission recommended that the application be partially approved.

(See the minutes of the Planning and Zoning Commission dated July 27 and August 10, 2017.)

The Council held a Public Hearing on this application on August 29, 2017 at which time action was deferred.

**M 459 17
Adopt
Proposed
Ordinance/
CU 2095**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO ORDINANCE NO. 1533 FOR CONDITIONAL USE NO. 1446 FOR A LANDSCAPING BUSINESS WITH OUTDOOR STORAGE TO REQUEST AN AMENDMENT TO CONDITION NO. 3 REGARDING HOURS OF OPERATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS" (Conditional Use No. 2095) filed on behalf of Sposato Investments, LLC.

DENIED

Motion Denied: 5 Nays.

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

**Grant
Requests**

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

**M 460 17
Council-
manic
Grant**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give \$2,000.00 (\$1,000.00 each from Mr. Arlett's and Mr. Vincent's Councilmanic Grant Accounts) to the Laurel Fire Department for a trailer to transport a utility vehicle.

Motion Adopted: 5 Yeas.

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

Representatives of the Laurel American Legion Post 19 were in attendance to present their grant request for the Annual Veterans Day Parade and to thank Council for its past support of the event.

M 461 17 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$3,000.00 (\$600.00 from each Councilmanic Grant Account) to the Laurel American Legion Post 19 for Veterans Day Parade expenses.**

Motion Adopted: 5 Yeas.

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

M 462 17 Countywide Youth Grant **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$2,000.00 from Countywide Youth Grants to Clothing Our Kids to purchase clothing.**

Motion Adopted: 5 Yeas.

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

M 463 17 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,500.00 from Mr. Cole's Councilmanic Grant Account to the Village Improvement Association for an intern to do archiving work.**

Motion Adopted: 5 Yeas.

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

M 464 17 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Wilson, 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 465 17 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,600.00 from Mr. Wilson's Councilmanic Grant Account to the Georgetown Fire Company for a trailer to transport a utility vehicle.**

Motion Adopted: 5 Yeas.

**M 465 17
(continued)**

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

**M 466 17
Council-
manic
Grant**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to give \$1,000.00 from Mr. Arlett's Councilmanic Grant Account to the Delmar Public Library for the capital fundraiser.

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
Zoning
Ordinances**

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HOUSE CONSTRUCTION AND SALES BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.709 ACRE, MORE OR LESS" (Conditional Use No. 2110) filed on behalf of Gaw Venture Group, LLC c/o John Gaw (Tax I.D. No. 334-12.00-24.00) (911 Address: 20028 John J. Williams Highway, Lewes).

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 RV/PARK MODEL/TRAILER REPAIR AND REFURBISHMENT BUSINESS WITH OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS, OF A 32.16-ACRE PARCEL OF LAND" (Conditional Use No. 2111) filed on behalf of Michael Moutzalias (Tax I.D. No. 134-8.00-5.00 (portion of)) (911 Address: 30190 Whites Neck Road, Dagsboro).

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MEDICAL OFFICE AND ANCILLARY MEDICAL USES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.30 ACRES, MORE OR LESS" (Conditional Use No. 2112) filed on behalf of Mitchell Family Limited Partnership. (Tax I.D. No. 335-8.00-37.01 and 335-8.00-37.00 (portion of)) (911 Address: Not Available).

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A

**Intro-
ductions
(continued)** **CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.0576 ACRES, MORE OR LESS” (Change of Zone No. 1845) filed on behalf of LMHT, LLC (Tax I.D. No. 334-12.00-57.01) (911 Address: Not Available).**

The Proposed Ordinances will be advertised for Public Hearing.

**Council
Members’
Comments** **Council Members’ Comments**

Mr. Arlett commented on the County’s team that participated in the Lewes Dragon Boat Race held on Sunday, September 17, 2017.

**M 467 17
Go Into
Executive
Session** **At 1:09 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters relating to land acquisition and pending litigation.**

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 1:11 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to land acquisition and pending litigation. The Executive Session concluded at 1:41 p.m.**

**M 468 17
Reconvene
Regular
Session** **At 1:43 p.m., a Motion was made by Mr. Cole, seconded by Mr. Burton, to come out of Executive Session and to reconvene the Regular Session.**

Motion Adopted: 3 Yeas, 2 Absent.

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

**M 469 17
Grant
Authority
to Negotiate
Land
Purchase** **A Motion was made by Mr. Cole, seconded by Mr. Arlett, that the Sussex County Council grants Todd Lawson, Sussex County Administrator, the authority to negotiate a contract for purchase of certain properties known as “2016-9”, to enter into a Contract of Purchase and Sale, and to proceed to closing on the properties.**

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**

**M 470 17
Action on
Delaware
Court of
Chancery
Decision/
TD Reho-
both and
Overbrook
Acres v.
Sussex
County**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon receipt of advice from Legal Counsel, that the Sussex County Council not pursue an appeal of the Delaware Court of Chancery decision in TD Rehoboth LLC and Overbrook Acres, LLC v. Sussex County Council, and that Council schedule a new public hearing in accordance with the Order entered on September 1, 2017.

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**

Rules

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

**Public
Hearing/
CU 2091**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTING OFFICE WITH STORAGE OF VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 4.13 ACRES, MORE OR LESS” (Conditional Use No. 2091) filed on behalf of William Hall (Tax I.D. No. 231-11.00-17.00) (911 Address: 17865 Hudson Lane, Georgetown).

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

The Planning and Zoning Commission held a Public Hearing on this application on August 10, 2017 at which time action was deferred. On August 24, 2017, the Commission recommended approval with the following conditions:

- A. The use shall be limited to a contracting office with storage of vehicles for the Applicant’s contracting, road striping and snow plow business.**
- B. During the Applicant’s presentation, he stated that he only needed approximately half of the property – the area between Raccoon Ditch Road and a ditch that crosses the property. As a result, the area of the Conditional Use shall be limited to the first 500 feet of the property from Raccoon Ditch Road. The Final Site Plan shall note this boundary line of the Conditional Use.**
- C. There shall not be any outside storage of paint or other materials associated with the use.**
- D. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- E. Any dumpsters on the site are to be located near the interior of the property and screened from the view of neighboring properties and roadways.**

**Public
Hearing/
CU 2091
(continued)**

- F. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- G. The hours of operation shall be Monday through Saturday from 7:00 a.m. until 5:00 p.m., except during snow events. No deliveries to or from the site shall occur before 7:00 a.m. No vehicles or equipment shall be operated on the site before 7:00 a.m., except during snow events.**
- H. No signage shall be permitted on the site.**
- I. All vehicle parking and large equipment storage areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself. All vehicles, including the Applicant's vehicles and employees' vehicles, must only be parked within the designated areas.**
- J. No outside burning of any materials shall occur on the site.**
- K. The Applicant shall install a solid screening fence along the gravel driveway known as "Hudson Lane". The height and type of fence shall be shown on the Final Site Plan.**
- L. There shall be no more than 10 vehicles on the site at any one time. Also, no junked, in-operable or untitled vehicles shall be located on the site.**
- M. This Conditional Use shall be reviewed in 3 years by the Commission.**
- N. Failure to comply with any of these conditions shall be grounds for the termination of the Conditional Use approval.**
- O. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated August 10 and 24, 2017.)

Ms. Cornwell reported that since the Public Hearing before the Commission, additional correspondence has been received in opposition to the application. The correspondence received was from John and Barbara Low, Alexander Kansak, and Terry Kansak. It was noted that the correspondence was previously distributed to Council members and has been made a part of the record.

The Council found that William Hall was present on behalf of his application. He stated that he operates a small striping company; that four employees come to the site every day, leaving their personal vehicles on the site, and leaving with a work truck; that employees' personal vehicles could be parked in the back; that no clients come to the site; that no signage is requested; that the only work done on the site is equipment maintenance; that hours proposed are 7:00 a.m. to 6:00 p.m.; and that he agrees to the conditions recommended by the Planning and Zoning Commission.

There were no public comments in support of the application

**Public
Hearing/
CU 2091
(continued)**

Terry Kansak, Barbara Low and Alex Kansak spoke in opposition to the application. They expressed concerns about the number of vehicles and equipment on the property; that the area is residential and a preserve area (farmland, timberland, State forest land); that the property is being used as a construction site; that the use is not compatible with the surrounding area; that the Applicant has stated that he plans to build a house elsewhere with the intention of moving the business so they question why he has made this application; that the property is owned by the Applicant's parents; that the Conditional Use, if approved, will stay with the property; that property values will be impacted; that the use is noisy; that diesel fumes come from the site; and that the property is unsightly. Terry Kansak read her written comments and submitted her written comments into the record. Mrs. Lowe submitted letters from her and her husband as well as their next door neighbor into the record. Alex Kansak submitted photos of the site into the record.

The Public Hearing and public record were closed.

**M 471 17
Defer
Action on
CU 2091**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to defer action on Conditional Use No. 2091 filed on behalf of William Hall.

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 1825**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.4789 ACRE, MORE OR LESS" (Change of Zone No. 1825) filed on behalf of Clarksville Auto Service Center, Inc. (Tax I.D. No. 134-11.00-154.00) (911 Address: 34455 Atlantic Avenue, Ocean View).

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

The Planning and Zoning Commission held a Public Hearing on this application on August 10, 2017 at which time the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated August 10, 2017.)

**Public
Hearing/
CZ 1825
(continued)**

The Council found that Dev Sitaram of Karins & Associates was present on behalf of the application with Kelly Phillips who was representing the owner. Mr. Sitaram commented on the location of the property and the surrounding area including the zonings and uses. He stated that they recently acquired the property from the previous owner and that they also own the 4 acre parcel surrounding the subject property which was previously rezoned commercial. Mr. Sitaram stated that the rezoning is consistent with the Comprehensive Plan.

There were no public comments.

The Public Hearing and public record were closed.

**M 472 17
Adopt
Ordinance
No. 2518**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2518 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.4789 ACRE, MORE OR LESS" (Change of Zone No. 1825) filed on behalf of Clarksville Auto Service Center, Inc.

Motion Adopted: 5 Yeas.

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

**M 473 17
Adjourn**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to adjourn at 2:53 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.}