

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 24, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 24, 2019, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Irwin G. Burton III	Vice President
Douglas B. Hudson	Councilman
John L. Rieley	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 473 19
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Minutes

The minutes of September 17, 2019 were approved by consent.

**Corre-
spondence**

Mr. Moore read correspondence from Rehoboth Summer Childrens Theatre thanking Council for grant funding.

**Public
Comments**

There were no public comments.

**League of
Women
Voters of
Sussex
County/
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 tenth year of activity; observers attended County Council and Planning and Zoning Commission meetings. Ms. Breen presented copies of the report to the Council.

Personnel Board Appointment

Mr. Lawson reported that due to a recent vacancy on the County's Personnel Board, it is necessary to fill that vacancy. Mr. Lawson distributed the resume of Kathy Kiernan Newcomb; Ms. Newcomb is qualified to serve and has agreed to serve on the Personnel Board.

M 474 19 Approve Personnel Board Appointment

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Council approves the appointment of Mrs. Kathy Kiernan Newcomb to the Personnel Board, effective immediately for a period of three (3) years.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea

Administrator's Report

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

1. Sussex County Property Taxes Due September 30th

A final reminder for property owners in Sussex County that September 30th is the deadline to pay annual County property tax bills. Payments can be made in person, online, by phone, or by mail. Any payments mailed must be postmarked no later than September 30th. Payments made October 1st or later will be subject to penalty.

This year's tax bills once again feature an easy-to-read format to help taxpayers better understand their bills and payment options. A number of payment options are available for the public's convenience. A tutorial explaining how to view account information and to make payments is available on the County website at <https://www.sussexcountycle.gov/property-tax-portal-tutorial>.

Sussex County accepts tax payments by cash, check, money order, and debit or credit cards.

2. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for August 2019 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 194 troopers assigned to Sussex County for the month of August.

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

3. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Americana Bayside – Village C – Phase 2 – Sewer (added two Lots 1046 and 1047) received Substantial Completion and Silver Woods – Phase 5A received Partial Substantial Completion for Lots 66-85 and Lots 89-111 only, effective September 17th.

4. Keep DE Litter Free – Sussex County Employees

On Friday, September 20, 2019, five teams of Sussex County employees set out to clean the county as part of the Keep DE Litter Free campaign. In all, more than 40 employees, including two Council members, spent the afternoon picking up trash along five select roads known for their high volume of litter and debris. The roads included Bunting Road, Cordrey Road, Hastings Farm Road, Molly Field Road, and Steiner Road. Through their efforts, the County collected 169 bags of trash, as well as larger items including televisions, furniture, and coolers. I would like to thank our partners at DelDOT who provided supplies and came through and picked up the collected trash.

Finally, I want to highlight the efforts of Mr. Mike Costello, our Government Affairs Manager, who organized this entire effort. Mike worked with the Employee Benefit Committee and the team captains, including Jen Breasure, Sherman Littleton, Lindsey Stubbs, and Scott Thornton, to develop a plan which was executed flawlessly, and the end result exceeded everyone's expectations. I want to personally thank Mike and all the volunteers who made this inaugural event a tremendous success. Based on the response and the results, we hope to plan another cleanup event in 2020.

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

**CZ 1882
Close
Record**

In regard to Change of Zone No. 1882 filed on behalf of Nassau DE Acquisition Co., LLC, Janelle Cornwell, Planning and Zoning Director, reported that the Sussex County Council reopened the public record for receipt of agency responses and left the record open for the public to provide written comment (on those responses); the record closed at 4:30 p.m. on September 23, 2019. All comments were passed along to the Council members. Ms. Cornwell stated that the purpose of this agenda item is to note the closing of the record.

**CZ 1882
Withdrawal
Request**

In regard to Change of Zone No. 1882 filed on behalf of Nassau DE Acquisition Co., LLC, Janelle Cornwell, Planning and Zoning Director, reported that a letter has been received from the Applicant's engineer and attorney requesting the withdrawal of the Change of Zone application.

M 475 19
Accept
Withdrawal
of CZ 1881

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council accepts the withdrawal of Change of Zone No. 1882 filed on behalf of Nassau DE Acquisition Co., LLC.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Proposed
Messick
Develop-
ment SLD

Hans Medlarz, County Engineer, presented the results of the Messick Development Chapter 95 Streetlighting District election which was held on September 9, 2019. The certified election results show, out of an approximate total of 75 eligible votes within the proposed district boundaries, sixteen (16) total votes were cast reflecting 16-Yes votes and 0-No votes. Based on the affirmative results of the election, and in accordance with Chapter 95 of the Sussex County Code, the Engineering Department requests approval of a Resolution establishing the Messick Development Streetlighting District with boundaries as shown on Exhibit A containing Tax Map 430-23.00 with parcel numbers listed on Exhibit B; and allowing the County Engineer to engage the Delaware Electric Cooperative with the installation of streetlights and wooden poles, and to authorize the Finance Director to send an annual billing to the owners of all assessable properties within the boundaries.

M 476 19
Approve
R 019 19

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Council approves Resolution No. R 019 19 entitled “A RESOLUTION ESTABLISHING THE MESSICK DEVELOPMENT STREETLIGHTING DISTRICT” in accordance with Chapter 95 of the Sussex County Code authorizing the Finance Director to send the annual billing and authorizing the County Engineer to begin negotiations with Delaware Electric Cooperative for installation of associated street lights and poles.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

City of
Seaford/
Utility
Project
Request

Hans Medlarz, County Engineer, presented a request received from the City of Seaford to consider the acceleration of replacing selected portions of the interceptor sewer along the water front, as identified in the Engineering Report for the Western Sussex Sewer District.

M 477 19
Authorize
Advance
Project

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the request by the City of Seaford, that the Sussex County Council authorizes an advanced sewer construction project in accordance with the executed agreement for wastewater services, as amended, with final

M 477 19 approval of a formal addendum by the County Council at a later date.
Authorize
Advance Motion Adopted: 5 Yeas.
Sewer Con-
struction Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Project/ Mr. Wilson, Yea; Mr. Burton, Yea;
Seaford Mr. Vincent, Yea

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

M 478 19 A Motion was made by Mr. Rieley, seconded by Mr. Burton, to give
Council- \$1,000.00 from Mr. Rieley's Councilmanic Grant account to Indian River
manic High School for mock trial competition expenses.
Grant Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

Introduction Mr. Wilson introduced the Proposed Ordinance entitled "AN
of Proposed ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
Ordinances AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO-
MOTORCYCLE REPAIR TO BE LOCATED ON A CERTAIN PARCEL
OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX
COUNTY, CONTAINING 1.8711 ACRES, MORE OR LESS"(Conditional
Use No. 2205) filed on behalf of Frank Passwaters. (Tax I.D. No. 230-6.00-
1.02) (911 Address: 8870 Railroad Avenue, Lincoln).

Mr. Hudson introduced the Proposed Ordinance entitled "AN
ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR
GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (198
UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING
AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY,
CONTAINING 48.36 ACRES, MORE OR LESS" (Conditional Use No.
2206) filed on behalf of Linder & Company, Inc. (Evans Farm) (Tax I.D.
No. 134-12.00-74.00) (911 Address: 31434 Railway Road, Ocean View).

The Proposed Ordinances will be advertised for Public Hearing.

Rules Mr. Moore read the rules of procedure for zoning hearings.

Public A Public Hearing was held on the Proposed Ordinance entitled "AN
Hearing/ ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
CU 2183 AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE
FACILITY WITH OUTDOOR STORAGE TO BE LOCATED ON A
CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL
HUNDRED, SUSSEX COUNTY, CONTAINING 9.167 ACRES, MORE
OR LESS" (Conditional Use No. 2183) filed on behalf of Brent and Lisa

**Public
Hearing/
CU 2183
(continued)**

Hershey (Tax I.D. No. 235-15.00-26.07) (911 Address: 14374 Clyde's Drive, Milton).

It was determined that no one was present on behalf of the application.

The Council moved forward on the agenda to the next Public Hearing.

**Public
Hearing/
CU 2184**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRE, MORE OR LESS" (Conditional Use No. 2184) filed on behalf of Linda Ann Yupco-Connors (Tax I.D. No. 334-11.00-15.00) (911 Address: 32260 Jimtown Road, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on August 22, 2019 at which time action was deferred; no action has been taken at this time.

(See the minutes of the Planning and Zoning Commission dated August 22, 2019.)

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

The Council found that Larry Fifer, Attorney, was present on behalf of the application with Sam Connors, family member of the Applicant, and Kevin Smith of the Kercher Group. Mr. Fifer stated that the Applicant proposes a business or commercial use of the property; that a pole building currently exists at the rear of the site; that the Applicant operates a business that is headquartered elsewhere (down the road) and that equipment used for that business is proposed to be stored in the pole building on the parcel of land for Conditional Use No. 2184; that there would be no outside storage; that employees would come to the property at approximately 7:00 a.m. to pick up equipment and would leave the site for various jobs elsewhere; that there would be no signage; that lights would be security lights; that there would be no substantial additional traffic as a result of the proposed use; that they ask that a Traffic Impact Study not be required; that there would be no storage of material of any kind; that no fencing is proposed; that no additional buildings are proposed; and that there will be no chipping or grinding of materials on the property.

There were no public comments in support of the application.

Public comments were heard in opposition to the application. Gerald Allen stated that the application site is next to his mother's property; that the area is residential; that the roadway is narrow due to the sidewalks and other infrastructure installed; that the proposed use would be detrimental to the area; that the proposed use would bring a lot of traffic into the area;

**Public
Hearing/
CU 2184
(continued)**

and that employees arriving as early as 7:00 a.m. will create a problem in the neighborhood.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 479 19
Defer
Action/
CU 2184**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, to defer action on Conditional Use No. 2184 filed on behalf of Linda Ann Yupco-Connors.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU 2185**

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 MULTI-FAMILY (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.4516 ACRES, MORE OR LESS” (Conditional Use No. 2185) filed on behalf of Vincent Kinack (Tax I.D. No. 234-4.00-42.00) (911 Address: 21167 Short Road, Harbeson).

It was determined that no one was present on behalf of the application.

The Council moved forward on the agenda to the next Public Hearing.

**Public
Hearing/
CU 2187**

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 MOTOR VEHICLE SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.1657 ACRE, MORE OR LESS” (Conditional Use No. 2187) filed on behalf of Daniel Ostinvil (Tax I.D. No. 232-12.18-51.00) (911 Address: 31016 North Poplar Street, Laurel).

The Planning and Zoning Commission held a Public Hearing on this application on August 22, 2019 at which time action was deferred; no action has been taken at this time.

(See the minutes of the Planning and Zoning Commission dated August 22, 2019.)

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

The Council found that the Applicant wishes to sell cars on his property; that there would be no more than three to five vehicles for sale on the

**Public
Hearing/
CU 2187
(continued)**

property at any one time; that there is an existing entrance and parking; and that the request is for car sales only, not repairs.

In response to questions, Mr. Ostinvil stated that he also has a BBQ truck parked on the property and he holds BBQs on the property.

Council commented that there would be two businesses on the property, car sales and BBQ sales and that there would not be much room for customers to park on the property. Council questioned if the Applicant has a Conditional Use permit for BBQ sales and it was noted that he does not.

There were no public comments.

The Public Hearing and public record were closed.

**M 480 19
Defer
Action on
CU 2187**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to defer action on Conditional Use No. 2187 filed on behalf of Daniel Ostinvil.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

CU 2183

It was noted that the Applicant for Conditional Use No. 2183 had been contacted and would be arriving soon.

**M 481 19
Recess**

At 2:03 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Wilson, to recess until 2:15 p.m..

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**M 482 19
Reconvene**

At 2:15 p.m., a Motion was made by Mr. Burton, seconded by Mr. Hudson, to reconvene.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Absent; Mr. Burton, Yea;
Mr. Vincent, Yea**

Mr. Wilson joined the meeting.

**Public
Hearing/
CU 2183**

The Public Hearing continued on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE FACILITY WITH OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 9.167 ACRES, MORE OR LESS” (Conditional Use No. 2183) filed on behalf of Brent and Lisa Hershey (Tax I.D. No. 235-15.00-26.07) (911 Address: 14374 Clyde’s Drive, Milton).

The Planning and Zoning Commission held a Public Hearing on this application on August 22, 2019 at which time action was deferred; no action has been taken at this time.

(See the minutes of the Planning and Zoning Commission dated August 22, 2019.)

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

The Council found Brent Hershey was present on behalf of his application. He stated that they have offices and a production business in Pennsylvania; that a fire in Pennsylvania led them to purchasing the application site for their pig breeding and birthing farm; that the operation has been up and running for three years; that there are some dilapidated buildings on the site that they want to refurbish to use for storage; that they are asking for an adaptive reuse of those farm buildings for secondary storage (boats, contractors equipment, etc.); that there would be no public access to the site; that there would be no offices; that the same footprint would remain; that the height would be raised on one of the buildings; and that they are following the regulations of the Agricultural Preservation District.

There were no public comments.

The Public Hearing and public record were closed.

**M 483 19
Defer
Action/
CU 2183**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to defer action on Conditional Use No. 2183 filed on behalf of Brent and Lisa Hershey.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU 2185**

The Public Hearing continued on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF

**Public
Hearing/
CU 2185**

LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.4516 ACRES, MORE OR LESS” (Conditional Use No. 2185) filed on behalf of Vincent Kinack (Tax I.D. No. 234-4.00-42.00) (911 Address: 21167 Short Road, Harbeson).

It was determined that there was still no present on behalf of the application.

It was also noted that no one was present in support of or in opposition to the application.

Mr. Moore reminded Council that no recommendation has been received from the Planning and Zoning Commission.

The Public Hearing and public record were closed (the record will remain open for the Planning and Zoning Commission’s recommendation only).

**M 484 19
Defer
Action/
CU 2185**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to defer action on Conditional Use No. 2185 filed on behalf of Vincent Kinack.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**M 485 19
Adjourn**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to adjourn at 2:32 p.m.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, 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.}