SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 27, 2026

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 27, 2026, at 10:00 a.m., in Council Chambers, with the following present:

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

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

Call to Order **Mr. Hudson called the meeting to order.**

M 485 26 Approve Agenda **A Motion was made by Mr. McCarron, seconded by Mr. Rieley, to approve the Agenda, as presented.**

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

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

Minutes **The minutes from October 20, 2026, were approved by consensus.**

Corre-spondence **There was no correspondence.**

Public Comments **Public comments were heard.**

Ms. Adele Jones spoke about overdevelopment in Sussex County.

Mr. Todd Abrams spoke about issues that he is experiencing in the Maritima subdivision.

Mr. Michael Suit presented Mrs. Jennings with a plaque for appreciation for her work with the Sussex County Volunteer Firefighter's Association.

Ms. Lisa Rice spoke about SB23 and HB450.

Presentation **A presentation was given by James Adkins, Director, Carvel Research and Education Center providing Council an update on their programming.**

Comp Land **Representatives from McCormick Taylor provided an update on the**

Use Plan Update

Comprehensive Land Use Plan. The phases of the plan were discussed further as well as the timeline. A discussion was held about the population numbers that are used to put the plan together.

SB23 & HB450

Mr. Lawson and Mr. Robertson led a discussion related to the implementation of Senate Bill 23 & House Bill 450. The procedure requirements and objective standards that are required in SB23 were outlined.

Adminis-trator's Report

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

1. <u>Holiday and County Council Meeting Schedule</u>

County offices will be closed on Tuesday, November 3rd, for Election Day, and Thursday, November 5th, for Return Day.

The Sussex County Council will not meet on November 3rd. The next regularly scheduled Council meeting will be held on November 10th.

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

Wolfe Neck CO No. 4

Mike Harmer, County Engineer, presented change order no. 4 for Wolfe Neck RWF upgrade and expansion for Council's consideration.

M 486 26 Approve CO No. 4/Wolfe Neck CO No. 4

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, be it moved that based upon the recommendation of the Sussex County Engineering Department, that change order no. 4 for contract S24-09, Wolfe Neck Regional WWF electrical service & switchgear replacement – electrical construction be approved in the amount of $24,910.74.

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

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

Admin Bldg Renovations

Mike Harmer, County Engineer, presented additional services proposal for Administration Building renovations for Council's consideration.

M 487 26 Approve Admin Bldg Renovations Additional Services

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum, be it moved that based upon the recommendation of the Sussex County Engineering Department, that County Council approve the DEDC, LLC, building systems modifications and renovations additional services proposal, in the amount of $43,300.00 for various renovations within the Administration building.

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

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

IB CO No IB-014 & IB-05

Mike Harmer, County Engineer, presented change order no. IB-014 and IB-005 for SCWRF treatment process upgrade no. 3 for Inland Bays Extension for Council's consideration.

M 488 26 Approve CO No IB-014 IB Extension

A Motion was made by Ms. Gruenebaum, seconded by Mr. McCarron, be it moved that based upon the recommendation of the Sussex County Engineering Department, that M.F. Rona's change order no. IB-014 for the Inland Bays phase 2 expansion project, be approved, in the amount of $2,811,800.00.

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

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

M 489 26 Approve CO No IB-005 IB Extension

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum, be it moved that based upon the recommendation of the Sussex County Engineering Department, that BW Electric, Inc.'s change order no. IB-005 for the Inland Bays phase 2 project, be approved in the amount of $1,350,420.79.

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

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

Sugar Maple Farms Closeout

Mark Parker, Assistant County Engineer, presented a project closeout for Sugar Maple Farms Road improvements for Council's consideration.

M 490 26 Approve Sugar Maple Farms Closeout

A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum, be it moved that based upon the recommendation of the Sussex County Engineering Department, that contract T25-40, Sugar Maple Farm Road Improvements, be accepted for closeout with substantial completion be granted on December 24, 2025, and as part of project closeout change order no. 1 be approved resulting in a net decrease in contract price of $17,474.99.

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

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

Mr. Hudson, Yea

Proposed Ordinance/ Joy Beach Phase 2

Paul Mauser, Assistant County Engineer presented a Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO $4,892,000 OF A GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH THE JOY BEACH PHASE 2 SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

Mr. Mauser provided an overview of the project.

Proposed Ordinance Introduction

Mr. Rieley introduced an Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO $4,892,000 OF A GENERAL OBLIGATION BOND OF SUSSEX COUNTY IN CONNECTION WITH THE JOY BEACH PHASE 2 SEPTIC ELIMINATION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

SC Pole Bldg CO No 1

Paul Mauser, Assistant County Engineer, presented change order no. 1 for Sussex County Pole Buildings for Council's consideration.

M 491 26 Approve CO No 1/SC Pole Buildings

A Motion was made by Mr. Rieley, seconded by Mr. McCarron, be it moved that based upon the recommendation of the Sussex County Engineering Department, that change order no. 1 for contact G25-08, Sussex County pole buildings, be approved, increasing the contract by $40,398.00.

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

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

Slaughter Beach Amend No. 4

Paul Mauser, Assistant County Engineer, presented amendment no. 4 for Slaughter Beach sewer extension construction administration and inspection for Council's consideration.

M 492 26 Approve Slaughter Beach Amend No. 4

A Motion was made by Mr. McCarron, seconded by Mr. Rieley, be it moved that based upon the recommendation of the Sussex County Engineering Department, that amendment no. 4 to the 2024 miscellaneous engineering base agreement with Davis, Bowen & Friedel, Inc., be approved in the amount not to exceed $926,010.00 for construction administration and inspection services associated with the Slaughter Beach sewer expansion and North Ellendale diversion projects.

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

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

Mr. Hudson, Yea

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

M 493 26 Town of Georgetown — **A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give $3,000 ($1,500 from Mr. Rieley's Councilmanic Grant Account and $ 1,500 from Mr. Hudson's Councilmanic Grant Account) to the Town of Georgetown for their Mayor's reception on Return Day.**

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

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

Ord Intro — **There were no Proposed Ordinance for Introduction.**

CM Comments — **There were no Council Member comments.**

M 494 26 Go Into Executive Session — **At 12:26 p.m., a Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to go into Executive Session for the purpose of discussing matters related to land acquisition.**

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

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

Executive Session — **At 12:33 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to land acquisition. The Executive Session ended at 1:21 p.m.**

M 495 26 Reconvene — **A Motion was made by Mr. Rieley, seconded by Mr. McCarron to reconvene.**

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

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

E/S Action — **There were no matters related to Executive Session matters.**

Public Hearing/ Briarstone Annexation — **A Public Hearing was held for the Briarstone Annexation into the Sussex County Unified Sanitary Sewer District, Western Sussex (Greenwood Area).**

Into SCUSSD

John Ashman, Director of Utility Planning & Design Review, presented the annexation request. Mr. Ashman reported that the Engineering Department received a request from Pennoni Associates on behalf of their client, Greenwood Developers LLC. The project submitted a letter of no objection from the Town of Greenwood for the parcel to be annexed. The project will be responsible for system connection charges based on the rate at the time of connection. To date, there has been no correspondence received in support or opposition to this annexation.

There were no public comments.

The Public Hearing and public record were closed.

M 496 26 Adopt Resolution No. R 011 26/ Briarstone Annexation into SCUSSD

A Motion was made by Mr. McCarron, seconded by Mr. Rieley to Adopt Resolution No. R 011 26 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) TO INCLUDE ONE PARCEL 530-10.00-45.00 ON THE EAST SIDE OF SUSSEX HIGHWAY. THE PARCEL IS LOCATED IN THE NORTHWEST FORK HUNDRED, SUSSEX COUNTY, DELAWARE, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE".

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

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

Rules

Mr. Moore read the rules of procedure for zoning matters.

Public Hearing/ CU2616

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 31.3 ACRES, MORE OR LESS" (parcel is lying on the west side of North Old State Road [S.C.R. 213] and the south side of Haflinger Road [S.C.R. 625], approximately 0.25 mile east of DuPont Boulevard [Rt. 113]) (911 Address: 9074 North Old State Road & 18126 Haflinger Road, Lincoln) (Tax Map Parcel: 230-12.00-22.00) filed on behalf of TPE DE SU519, LLC.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on October 14, 2026. On October 14, 2026, the Commission deferred action on the application for further consideration. Once a recommendation is received, it will be forwarded to the County Council for consideration.

Public Hearing/ CU2616 (continued)

The Council found that Mr. Michael Riemann, Principal and Civil Engineer with Becker Morgan Group, Inc. spoke on behalf of the Applicant, TPE DE SU519, LLC; that also present were Mr. Abe Bennett, Project Developer with Turning Point Energy, and Mr. Edward (Ted) Hastings, PMP with Becker Morgan Group, Inc. Mr. Riemann requested to submit into the record, additional information regarding Turning Point Energy, the benefits of solar, and a Glare Study, rather than regurgitate information the Council had heard numerous times.

Mr. Riemann stated that the site was located near Lincoln along Haflinger Road and North Old State Road; that the property consisted of approximately 31 acres; that the current zoning was Agricultural Residential (AR-1); that the existing use was for agriculture and residential; that the proposed use was for a community solar facility; that the total fenced area was approximately 20 acres; that access was located from Haflinger Road; that the inverters were centrally located, as required by Code; that based on feedback and discussion with property owners, an inverter was shifted to the west; that the access was provided by an approximately 20 foot wide graveled road; that all the facilities that currently existed on the site would be removed from the parcel; that they proposed a 30 foot wide landscape buffer around the entire perimeter of the property, which would be consistent with the Code and past imposed conditions; that there was not a 30 foot wide landscape buffer proposed for the location of the access road; that they proposed 70% evergreen trees and 30% deciduous, which was reversed from the landscape ratio requested in the past; that they felt their proposed landscape mixture would provide a more effective screening approach as compared to some past applications; that the fence around the property would have mesh on it; that they have requested a five year time frame requirement on the mesh, so that once the trees had matured, the mesh could be removed; that a previously imposed condition, which they had previously agreed to, was that the trees would have to be above the fence; that within five years, the trees should be taller than the fence; that they had proposed enhanced landscaping along one portion of the property, which would include all of the same landscaping, but would add an additional 15 large shrubs per 100 linear feet, as a result of feedback provided by one adjacent neighbor; that the proposed fence would be a knot wire fence, which was designed in a way to allow small animals to continue to migrate across the property; that they chose a mesh with a slight opening; that the mesh would still visibly block, but will allow more wind to flow through it; that they changed up the tie design to a metal tie system versus the previous plastic tie system; that the ground cover would include a pollinator mix, which had become very standard with solar projects; that the landscaping would be installed at approximately six feet in height, which was a typical installation height; that the landscape would continue to grow over time; that the goal was to ultimately screen the arrays; that they had performed a Sound Analysis, which indicated that the project would produce no more than 40 decibels at the property line; that

Public Hearing/ CU2616 (continued)

40 decibels was equivalent to a running refrigerator; that the inverters run during the day, and would not run at night; that at the quietest part of the day, there would be no noise; that the facility would benefit local residential, business and municipal subscribers with lower power costs; that there would be no traffic increase; that there would one to two maintenance vehicles visiting the site per month; that the project would provide a renewable energy source, which would not create odor, dust, gas, smoke or fumes; that the project would create little to no noise from power inverters, being 40 decibels at the nearest property line; that there would be reduced stormwater runoff; that the pollinator mix would create a reduction in runoff from the agricultural operation currently existing on the site, with row crops; that the project would provide a 30 foot wide landscape buffer around the perimeter of the site; that perimeter fencing would be provided to secure the property in accordance with the Electrical Code; that there would be a decommissioning performed at the end of the project's life cycle; that there would be a Decommissioning Bond put in place to ensure for decommissioning of the project; that there was a community outreach meeting held on May 18, 2026; that currently, the Interconnection Study had been completed for the project; that the Interconnection Study notifies the Applicant of any upgrades in the electrical grid that may be required for the facility to connect; that requirements could look like poles being replaced or improved or improving gauge wiring; that when solar facilities come online, they essentially upgrade and harden the transmission grid, which is valuable; that they are currently proceeding through the process, and had paid 50% of the required interconnection cost, which was paid on June 8, 2026; that they are moving quickly through the process; that the facility is a public utility use under the Sussex County Zoning Code, meeting the purpose of a Conditional Use, as the project is of a public or semi-public character, being essential and desirable for the general convenience and welfare of County residents; that the proposed facility promoted Goal 7.9 of the Sussex County Comprehensive Plan, which encourages the use of renewable energy options, such as solar arrays; that the proposed use would not have any adverse impact on the neighboring and adjacent properties; that the project provided adequate landscape buffering and perimeter fencing, while adding additional landscape in certain areas, beyond what was required; that the facility would not result in any noticeable increase in traffic on adjacent and neighboring roadways; that there would not be any regular employees at the site, only periodic visitors for inspections and maintenance; that no significant noise, dust or odor would be produced; that the project was compliant with Ordinance No. 2920, regarding solar facilities relating to all applicable buffers and setbacks, and the Interconnection Study had been completed, and the status was significantly de-risked.

There were no public comments.

The Public Hearing was closed, and public record was left open to receive

the recommendation of the Planning & Zoning Commission.

M 497 26 Defer Action/ CU2616

A Motion was made by Mr. McCarron, seconded by Ms. Gruenebaum to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOLAR ARRAYS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 31.3 ACRES, MORE OR LESS".

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

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

Mr. McCarron excused himself to attend a meeting with the Milford School District with the Governor's staff regarding a path forward for a recent fire that occurred at an elementary school.

Public Hearing/ CZ2061

A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR C/Z 673 (ORDINANCE NO. 294) IN RELATION TO THE ADDITION AND USE OF RECREATIONAL AMENITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.29 ACRES, MORE OR LESS" (property is lying on the south side of Plantations Boulevard, approximately 0.46 mile north of Cedar Grove Road [S.C.R. 283] and 0.14 mile west of Plantation Road [Route 1D & S.C.R. 275]) (911 Addresses: 18462, 18464 & 18466 Plantation Boulevard, Lewes) (Tax Map Parcel: 334-6.00-553.02) filed on behalf of Sandie, LLC.

Jamie Whitehouse, Planning & Zoning Director, presented the application.

The Planning & Zoning Commission held a Public Hearing on the application on July 22, 2026. On August 19, 2026, the Commission recommended approval of the application for the 15 reasons and subject to the 20 recommended conditions of approval as outlined.

The Council found that Ms. Mackenzie Sindelar, Esq. with Fox Rothschild spoke on behalf of the Applicant, Sandie, LLC; that also present were Mr. Dave Marshall, member of Sandie, LLC and the owner and operator of Dave Marshall Tennis and Pickleball, Mr. Carlton Savage Civil Engineer with Scaled Engineering, Inc., Mr. Dennis James (D.J.) Hughes, II, P.E.,

Public Hearing/ CZ2061 (continued)

Traffic Engineer with For Sure Hughes LLC; and Ms. Kim Hoey Stevenson, Public Relations Professional with Hoey Communications Group; that other members of the team who were not present for the hearing included, Mr. Jeffrey Wolf, Architect with Jeffrey Wolf Architecture, and Ms. Amy Reese, Landscape Architect with Love Dirt, LLC.

Ms. Sindelar stated that she represented Sandie, LLC, the applicant and property owner, in connection with their Change of Zone application, in connection with the property designated as Tax Map Parcel No. 334-6.00-553.02; that the application sought an amendment to the Comprehensive Zoning Map of Sussex County from an MR-RPC (Medium Density Residential – Residential Planned Community) to an MR-RPC (Medium Density Residential – Residential Planned Community) for the purpose to allow for a recreational area, for public access, and to improve the site further with recreational facilities and amenities, such as an indoor (not outdoor) pickleball and racket courts, an outdoor pool, parking areas, and sidewalks to the recreational area; that this request would thereby amend the original approval for Change of Zone, C/Z 673, which was approved in August 1985; that this application involved a lot of history; that Sandie, LLC is the owner and the Applicant of the application; that Sandie, LLC owned the property in fee simple, having acquired the property in 2008, with Dave Marshall Properties, LLC; that later by a deed dated, December 16, 2010, Dave Marshall Properties, LLC conveyed its entire interest to Sandie, LLC; the Dave Marshall Tennis and Pickleball is the tenant of the property, and is a well-known, long-standing racquet sports facility operated by Dr. Marshall and his son, Jordan; that the club offers year-round indoor and outdoor play, featuring both, indoor hard courts and outdoor clay courts for tennis; that with Dr. Marshall's extensive experience coaching players on the Association of Tennis Professionals and the Women's Tennis Association Tours; that the club enjoys strong community interest support in Sussex County, as demonstrated by the overwhelming support for the application; that memberships were affordably priced, making them accessible to many residents of Sussex County; that Dr. Marshall had operated the recreational amenities since 1995; that the property itself encompasses approximately 4.29 acres, as confirmed by survey, and was situated on the south side of Plantation Boulevard, about 0.46 mile north of Cedar Grove Road (S.C.R. 283), and 0.14 mile west of Plantation Road (Rt. 1D) and Route 275; that the 911 addresses were 18462, 18464 and 18466 Plantation Boulevard, Lewes, Delaware, being Tax Map Parcel No. 334-6.00-553.02; that the property was zoned MR-RPC (Medium Density Residential – Residential Planned Community), falling into the Plantation's Residential Planned Community, which was established through Change of Zone No. 673, changing the zoning from MR to MR-RPC; that some of the adjacent properties are zoned the same; that there was also a mixture of residential, agricultural, commercial and business uses nearby; that the property was located within the Coastal Area, which was a designated Growth Area in Sussex County

Public Hearing/ CZ2061 (continued)

per the 2018 Comprehensive Plan; that the Comprehensive Plan indicates that the Coastal Area can accommodate development, provided that specific environmental concerns are addressed; that a range of housing types, including single-family homes, townhomes, and multi-family units are permitted; that additionally, retail and office uses are appropriate, although larger shopping centers should be positioned with access along arterial roads; that mixed-use developments are also encouraged; that medium to high density residential, ranging from four to 12 units to the acre were also considered to be suitable, provided that central sewer and water is provided, as well as near employment centers and along main roads; that the 2025 Delaware Strategies for State Policies and Spending Map identifies the property as being located predominantly within Investment Level 1, with a small portion being located within Investment Level 2; that site was surrounded by similarly designated properties; that Investment Level 1, reflected areas already developed in urban and suburban style, where infrastructure was present or readily available, and where future redevelopment or infill projects are encouraged by State policy; that on January 12, 2024, the prior clubhouse caught fire due to unknown causes, which resulted in a total loss; that at first they thought that they could simply get a building permit; that they learned that they needed a site plan review; that during the site plan review process, the Commission considered a letter from a community board representative and scheduled a public hearing; that her client agreed to go through this process; that the Commission recommended approval of the application subject to the conditions; that the Commission found that the site has long been used for tennis, clubhouse, pool, classes, meetings, gym by the residents and the public; that some revised conditions were presented; that that the original RPC application was approved on August 27, 1985, through Ordinance No. 294, which was contained within the record; that the Ordinance was very simplistic in nature, and was nothing like what Ordinances would be currently in terms of conditions; that it included the residential components, but it also included the recreational area, as well as the spray irrigation area; that the recreational area, Phase One Residential area, Expanded Residential area, and Spray Irrigation area were all a part of the original approval; that to the contrary, one might argue that the allocated space was actually undersized, given the total acreage of the RPC, which was approximately 154.59 acres; that the existing acreage allocated for the recreation area, therefore does comply with the RPC Code, and specifically §115-119.B, which specifies a standard of one acre per 100 dwelling units, with a total of 608 dwelling units, 376 in Plantations East, and 232 in Plantations West; that this standard allows for a recreation area of approximately 6.08 acres; that therefore, the recreation area, at approximately 4.29 acres, complied with the requirement; that Ms. Sindelar presented to the Council Google Earth aerial images from March 1992, which reflected the original recreational facilities, and a portion of the property record card; that the property card reflected that in the early 90s, two pools, storage buildings, and tennis were permitted by Building & Licensing at that time; that there were questions regarding the

Public Hearing/ CZ2061 (continued)

use and continued use; that for a long time, and since inception, the facilities had been used by others, not just the community residents; that the record contained a 1994 article announcing the hiring of a new general manager and tennis director; that an advertisement from 1995 described the area and the community as resort living; that indicated that it was not only the residential component, but also the recreational component; that historical records indicate that the use had existed, operated and was permitted since the mid-80s; that she presented an image from 2005 illustrating the recreational facilities that were available; that on the image one could see that there used to be two pools; that the larger, Olympic sized pool was retired, due to a crack in the liner, and the cost of replacement was cost prohibitive; that a picture from July 2010 showed what existed at the time, but also reflected a parking area that Dr. Marshall used to rent from the community; that there previously was a dispute regarding the use and rental of the parking lot, which ultimately escalated into litigation between the Applicant and the community; that there are six indoor courts used for pickleball and tennis and four outdoor tennis courts; that one of the outdoor courts is used for pickleball; that there is a gym, storage and restrooms; that currently, there are 45 parking spaces on the site with two ADA compliant spaces; that when entering the property, one could see the existing parking lot, some landscaping boulders with no parking signs; that they proposed to place additional signage to address some of the off-site parking issues; that the prior clubhouse was approximately 13,383 square feet; that the proposal included constructing a new building of approximately 9,984 square feet to serve indoor courts; that they are proposing a clubhouse about 3,399 square feet smaller than the previous clubhouse; that the proposed building would be designed to be more integrated into the property, as it will align more with the existing structures, rather than the previous clubhouse which extended closer to the property lines and the condominium units on the one side of the entrance; that the new plan reduced the footprint of the prior building, allowing it to blend more seamlessly with the surrounding improvements on the site; that the proposal features a pool and a proposed deck area, describing the disturbed area; that they had and were continuing to have discussions with the community about the size of the pool; that the proposal also contemplates an additional 62 regular parking spaces, and an additional four ADA compliant spaces, along with sidewalks, which will all be subject to final engineering; that from a financial perspective the proposed pool would be a total loss to Dr. Marshall and the business, however, he was offering the pool for good neighborly relations and considering that a pool had previously been present at the property; that it was his understanding that a vast majority of residents are excited about the prospect of the pool; that she presented the Council a conceptual design, and architectural rendering for the proposed build, which maintained earth toned colors, which were requested and proffered as a condition; that Dr. Marshall painted some other buildings on site forest green to blend in with existing vegetation, which had been requested by some members of the community; that the purpose of the MR Zoning District was to provide for medium

Public Hearing/ CZ2061 (continued)

density residential development in areas that were or were expected to become generally urban in character, where sanitary sewer and public water supplies would be available at the time of construction; that the recreational use would resemble typical uses and practices in residential communities and would be compatible with the area; that the use had existed since the communities inception, supported by governing documents of the community, and aerial images dating back to the early 90s, which publicly advertised the concept of resort and club life; that the building was proposed to be tucked tight with the rest of the existing improvements; that this would allow for double the existing parking spaces; that additional site data and parking calculations could be located on the plan for review; that the Applicant was the recipient of the Delaware Sports Tourism Investment Fund Grant Award in the amount of $1 Millon; that the grant operates as a match fund, meaning the Applicant's expenditure of up to a million dollars would then be matched by an amount equal of up to a million dollars; that access to the property was provided from Plantations Road, using certain internal streets of the Plantations in accordance with the Declaration of Cross Easement and Maintenance Agreement; that her client has paid, in connection with the use, over $100,000, despite the untrue statements suggesting there had been no contribution from her client to the maintenance of the streets; that the issue of access, use and maintenance fees, for those access ways were established by written recorded agreement and recorded easement plot, which had already been litigated and decided; that there had been requests for changes to the underlying agreement and related changes to the capital funds and maintenance fees, which her client was reviewing and currently considering; that her client was not looking to relitigate the issue, but was willing to consider amendments; that he has paid $150,000 to the community to maintain the current roadways; that he had offered to assist with repaving, and was willing to continue that conversation; that any outcome must be fair; that there needed to be accountability for the maintenance of the roadways, as it was not entirely evident what historical improvements had been made; that any consideration for the use of the easement should be proportional to the Applicant's use, and Ms. Sindelar requested to have Mr. Carlton Savage speak on the stormwater, to be followed by Mr. Hughes to discuss traffic for the project.

The Council found that Mr. Carlton Savage, Principal and Sr. Civil Engineer with Scaled Engineering, Inc., spoke on behalf of the application's stormwater management. Mr. Savage stated that they had already had conversations with the Soil Conservation District in Sussex County; that on September 29, 2025, they had a meeting to discuss what would be required for rebuilding the application; that based on that meeting, it was determined that that they would be a non-residential standard plan; that those requirements were listed; that some of those requirements are less than an acre of disturbance.

Mr. Dennis James (D.J.) Hughes, II, P.E., President and Sr. Traffic

Public Hearing/ CZ2061 (continued)

Engineer with For Sure Hughes, LLC spoke on behalf of the application's traffic impact. Mr. Hughes stated that as part of the application, a DelDOT Service Level Evaluation Request was required; that consistent with DelDOT and Sussex County's MOU (Memorandum of Understanding), DelDOT responded that the application would have a diminutive impact on local roadways, which equaled an increase of fewer than 50 trips per day; that previously the fire that destroyed a building that was larger by about 4,000 square feet; that the building they were proposing to rebuild was about 4,000 square feet less than the previous building; that the proposed pool and deck were basically replacing the previous improvement; that before the application was submitted, they had submitted their Site Plan to DelDOT; that DelDOT responded by providing a Letter of No Impact, where DelDOT stated there would not be any improvements associated with the application, and that no further review would be required by DelDOT; that a recreational community center included meeting rooms, social quarters, swimming pools, saunas, whirlpools, racquetball, handball, pickleball, tennis courts, indoor and outdoor facilities, exercise classes, and also could be open to public access, public use; that the previous use included Hot Yoga, Irish dance classes, Pilates, and Weight Watchers, as well as counseling, along with the existing pickleball and tennis courts; that the current application proposed to only have pickleball courts insides, with a pool and deck outside, which used to exist previously; that when one totaled up all the buildings, the previous facility, excluding the storage building, was 40,000 square feet, which totaled 1,153 trips per day, not just 1,153 cars per day; that this basically equated to 577 cars in and out each day; that the morning peak hour came out to 81 trips in and out; that the evening hour came out to 116 trips in and out; that the recreational community center covered all the previous and current proposed uses; that with replacing the building with a smaller building, it equaled about 1,055 trips per day, equating to just under 530 cars coming in and out; that the morning hour would equal 74 trips per day, and the evening hour would equal about 106 trips per day; that the supporting data and calculations came from the ITE (Institute of Transportation Engineers Trip Generation Manual); that there had been a lot of discussion regarding the pickleball tournaments, especially when people heard 500 players; that those 500 players would be over the course of three days; that at any one time, there would not be any more than about 40 to 50 players on the site; that parking was also an issue of concern; that there was 47 existing parking spaces, and 66 parking spaces were proposed; that parking would be more than doubling; that there would be 113 parking spaces on the site, including ADA combined parking spaces; that if the ITE stated, if one held a daily week or weekend tournament, sometime between Monday and Friday, it would generate 666 total trips, which would be like 334 cars entering and exiting; that during the morning it would be 33 trips; that in the afternoon it would be 75 trips; that on Saturdays those trips counts would go up; that the trip count for the previous use was 1,153, with the daily use actually being higher at 1,055 trips; that on Saturday there would be 898 ADT, equating to 499 acres in and out throughout the

Public Hearing/ CZ2061 (continued)

course of the day; that it would be spread throughout the course of the day; that 130 trips would be the highest hour; that there will be more parking and signage to let people know where parking is allowed; that traffic flow was one of the most stated concerns within the submitted comments; that they had discussed making a one-way entrance, and improving signage to ensure everyone knows how to get to and from the site; that the Site Plan would be required to go through Final Site Plan review; that there had been discussions regarding speed bumps; that he would recommend tables or humps, as they were more gradual; that gated access was already provided, which acted like a speed table.

Ms. Gruenebaum questioned the number of people that come to watch the matches and the traffic impact relating to the size of the building.

Ms. Sindelar spoke about the conditions that were given by the Planning Commission; that at the beginning of the meeting, Mr. Hutt provided her with a revised version of the conditions; that she is confident that they can come to terms; that they have not had an opportunity to read through what they received today; that they would like to leave the record open until November 13th to respond to the proposed conditions; that she highlighted a few conditions; that there is a conditions covering the existing and proposed use; that the pickleball court play, the applicant is looking to allow for outdoor pickleball court play; that the use currently occurs; that the applicant would like to allow for outdoor pickleball to be played as it is today; that the applicant is looking for a cost cap of no more than $300,000 for the swimming pool; that a reduced size has been proposed which will be worked through; that it is membership based; that a ten percent discount to residents will be offered by the applicant; that there were two conditions relating to traffic that were cleaned up and clarified; that flexibility for the screening was updated; that there is a pool speaker request that came from the fact that there used to be a poolside speaker; that it is understood that the community does not want it; that they can address that if the record is kept open; that there was a proffer by the applicant to put a cap on the number of tournaments related to pickleball; that the conditions are critical to the success of the project; that Dr. Marshall is committed to working with the community; that he has agreed to improve the appearance of the site; that this facility was always intended to be open to the public.

Ms. Kim Hoey-Stevenson spoke on behalf of the applicant; that this has been a case of miscommunication; that she lived in the Plantations in the 90s and people came in to take lessons, there was a driving range and evening pool parties; that she understands the concerns; that with the grant that was received, it states a tournament with 500 people; that she understands the worry about traffic; that currently, pickleball tournaments are happening with that many people; that they are spread out throughout many days so there are no more than 40-50 people there at a time; that are no bleachers; that this is a sport where aging people can continue to be active; that Mr. Marshall has been paying in for the road improvements;

Public Hearing/ CZ2061 (continued)

that he is offering to repave the area; that the swimming pool request is because people have asked for it; that there have been open houses to provide more information.

Public comments were heard.

Mr. David Hutt, Esq., with Morris James, LLP, spoke on behalf of the Plantations Condominium Association, Inc., as well as the Plantations Property Owners Association, Inc., being the two associations that govern the Plantations Residential Community within which the subject site currently lies.

Ms. Maria Francu spoke in favor of the application.

Mr. Don Hume spoke in favor of the application.

Mr. Paul Bach spoke in favor of the application.

Ms. Suzanne Feuerman spoke in favor of the application.

Ms. Audi Niman spoke in favor of the application.

Ms. Kathy Lewis spoke in favor of the application.

Ms. Kathy Aldridge spoke in favor of the application.

Ms. Melaine Perman spoke in favor of the application.

Ms. Jean Owens spoke in opposition of the application.

There were 8 people that spoke via telephone that spoke in support of the application.

The Public Hearing was closed.

M 498 26 Defer Action/ CZ2061

A Motion was made by Ms. Gruenebaum, seconded by Mr. Rieley to defer action on a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR C/Z 673 (ORDINANCE NO. 294) IN RELATION TO THE ADDITION AND USE OF RECREATIONAL AMENITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SUSSEX COUNTY, CONTAINING 4.29 ACRES, MORE OR LESS" and to leave the public record open until November 13, 2026 until 4:30 p.m. with all comments submitted in writing to Planning & Zoning by the public and applicant and it be placed back on the November

17th agenda.

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

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

M 499 26 Adjourn **A Motion was made by Mr. Rieley, seconded by Ms. Gruenebaum to adjourn at 4:13 p.m.**

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

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

Respectfully submitted,

Tracy N. Torbert
Clerk of the Council

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