

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 4, 2016

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 4, 2016, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
Robert B. Arlett	Councilman
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
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 593 16
Amend
and
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to amend the Agenda by deleting "Introduction of Proposed Zoning Ordinances" and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea

Minutes

The minutes of September 27, 2016 were approved by consent.

**Corre-
spondence**

Correspondence

Mr. Moore noted that correspondence was received from David Hutt, Attorney, relating to the Proposed Sign Ordinance, and that Mr. Hutt's correspondence would be discussed under Old Business on this date.

**Public
Comments**

Public Comments

Robert Kuehnl of Heron Bay stated that he was in attendance along with residents of the Heron Bay Community to report to Council on the continued failure of the developer (Capano / LC Homes) to complete the amenities, streets, and stormwater facilities in Heron Bay. Mr. Kuehnl asked for the County's help in resolving this matter.

Mr. Lawson reported that the County is actively working on a solution.

[Mr. Wilson joined the meeting.]

Public
Comments
(continued)

Dan Kramer commented on Council's action last week on the Sussex Conservation District's Residential Construction Application and associated fee.

Chris Pollinger of Heron Bay also commented on the problems in Heron Bay. He stated that pipes were installed wrong and are the wrong size; he referenced flooding and stormwater issues; and he stated that the residents do not have access to the clubhouse and that amenities have not been put in. Mr. Pollinger stated that these types of problems are happening all over the County.

Paul Reiger commented on inspections by the County. He also commented on the retirement of the Planning and Zoning Director; the appointment of a new Planning and Zoning Director, and the open seat on the Planning and Zoning Commission.

House
Concurrent
Resolution
95 / Task
Force

Mr. Lawson referenced House Concurrent Resolution No. 95 by which the Delaware General Assembly established a Task Force to review the financial management procedures of Volunteer Fire Companies. Mr. Lawson noted that task force membership specifically references "A representative of each of the counties, appointed by the County government." Mr. Lawson recommended that Gina Jennings, Finance Director, serve as the County's representative. The first meeting of the Task Force is scheduled to take place in October.

M 594 16
Appoint-
ment to
State
Task
Force
per
HCR 95

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that the Sussex County Council appoints Gina Jennings, Finance Director, to the State Task Force to review the financial management procedures of Volunteer Fire Companies.

Motion Adopted: 5 Yeas.

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

Adminis-
trator's
Report

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

1. Sussex County Election Year Scholarship Contest

Sussex County once again is sponsoring its Election Year Scholarship Contest for local students. As in elections past, students will be asked to predict which candidates will win office in the 2016 general election set for November 8th. The student with the most correct predictions will win a \$200 scholarship, while five runners-up will each win \$100 scholarships.

Administrator's Report (continued)

Students 18 and younger who live in Sussex County are eligible to participate. Entrants will be asked to predict the winners of 20 federal, statewide, and county races; the student with the most correct guesses will win. To break a tie, entrants will be asked to guess how many votes the winner of this year's race for president will collect in Sussex County. Winners will be announced once election results are certified.

The scholarships will be paid upon each student's enrollment in college or another post-high school educational program.

For complete rules and to enter, log on to www.sussexcountyde.gov/election-contest.

Impacted Communities Study Presentation

Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer, and Stephanie Hanson, Attorney, presented a synopsis of the Impacted Communities Study which the County was required to do as a result of the Voluntary Compliance Agreement (VCA) that was put in place as a result of the New Horizons lawsuit. Study highlights included the study scope, the communities identified (total of 14), community outreach and survey methodology, and current and past community investments. The Study is available on the County's website under the Affordable and Fair Housing Resource Center.

Pump Station 210/ Change Order

Hans Medlarz, County Engineer, presented Change Order No. 1 for the Pump Station #210 Improvements Project, Contract No. 15-07. Mr. Medlarz reported that Value Engineering of the project resulted in line item costs and/or credits and he discussed those changes.

M 595 16 Approve Change Order/ Pump Station 210 Improvements Contract

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Department and its consultant, Whitman, Requardt and Associates, LLP, that Change Order No. 1 for Sussex County Contract No. 15-07, Pump Station #210 Improvements with Kuhn Construction Company, be approved, which decreases the current contract by \$8,411.26 for a new contract total of \$4,995,288.74.

Motion Adopted: 5 Yeas.

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

Telescopic Handler Project

Hans Medlarz, County Engineer, presented the bid results for Telescopic Handler, Project 17-06 (there were three Alternate Bids solicited). A total of three bids were received and the lowest responsive bidder was Iron Source with a total bid of \$119,300.00 (Alternate Bid 3). The estimate for the equipment was \$136,990.00.

**M 596 16
Award Bid/
Telescopic
Handler
Project**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Bid Alternate 3 for Contract #17-06, Telescopic Handler, be awarded to Iron Source, LLC of Georgetown, Delaware, in the amount of \$119,300.00.

Motion Adopted: 5 Yeas.

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

**Bulk
Delivery/
Caustic
Soda**

Hans Medlarz, County Engineer, presented the bid results for Project #17-05, Bulk Delivery of Caustic Soda. Three bids were received and the low bidder was George S. Coyne Chemical Co., Inc. of Croydon, Pennsylvania, with a total unit price of \$2.839 per gallon, which will be valid for two years.

**M 597 16
Award
Bid/
Bulk
Delivery
Caustic
Soda**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Project #17-05, Bulk Delivery of Caustic Soda, be awarded to George S. Coyne Chemical Co., Inc. of Croydon, Pennsylvania, at the bid amount of \$2.839 per gallon.

Motion Adopted: 5 Yeas.

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

**Sweet
Meadow
Lane
Expansion
of the
SCUSSD**

John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Sweet Meadow Lane Expansion of the Sussex County Unified Sanitary Sewer District (Johnsons Corner Area). The district expansion was requested by Shelly Lynn Wright, the property owner of Parcel 533-11.00-27.04. The expansion would consist of 5.00± acres. The parcel will be responsible for System Connection Charges of \$5,775.00 based on current rates. Contingent on the Council's approval, a Public Hearing will be scheduled and advertised for November 1, 2016 at 10:15 a.m.

**M 598 16
Prepare
and Post
Notices/
Sweet
Meadow
Lane
Expansion
of the
SCUSSD**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that the Engineering Department is authorized to prepare and post notices for the Sweet Meadow Lane Expansion of the Sussex County Unified Sanitary Sewer District (Johnson's Corner Area) to include Parcel 533-11.00-27.04, as presented on October 4, 2016.

Motion Adopted: 5 Yeas.

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

**Old
Business/
High
Tide
Church
Expansion
of the
SCUSSD**

Mr. Arlett left the room and did not participate in the discussion or the vote on the High Tide Church Expansion matter.

John Ashman, Director of Utility Planning, reported on the Proposed High Tide Church Expansion of the Sussex County Unified Sanitary Sewer District (Johnsons Corner Area). At the September 27, 2016 Council meeting, a Public Hearing was held to consider expanding the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD) to include the properties situated on the west side of State Route 113 and north and south of County Road 26 (Nine Foot Road) (High Tide Church Expansion of the Sussex County Unified Sanitary Sewer District).

On September 27th, Mr. Ashman presented the expansion proposal. The expansion, consisting of 122.65± acres, was requested by High Tide Church, a project currently known as PGS Properties, and Allen Harim. The church and PGS properties will be responsible for gravity sewer to a connection point on the west side of Route 113. This provides a connection point for the American Legion Post #24 which has been on a holding tank since approximately 2008; Allen Harim will be connecting to the gravity system installed by High Tide and PGS. There are several other parcels included in this expansion to fill in the donut hole and to maintain a contiguous path; some will be receiving a connection point from the High Tide/PGS infrastructure. The parcels will be responsible for system connection charges of \$5,775.00 based on current rates.

On September 27th, public comments were heard from two area residents requesting that the residents on Nine Foot Road and Hickory Lane be exempt from the proposed expansion. A petition in opposition to the proposed expansion was submitted on that date.

At the conclusion of the Public Hearing on September 27th, action was deferred for one week to allow the Engineering Department to contact the property owners in the proposed expansion area to determine their interest.

Per Council's direction, the Engineering Department tried to contact the property owners in the proposed expansion area (excepting Allen Harim, PGS Properties, and High Tide Church). The Engineering Department was able to directly contact two of the property owners and both property owners stated that they do not want a connection to the sewer district; they also stated that they think their neighbors are of the same opinion.

The Council discussed excluding the private property owners. Mr. Ashman stated that the Engineering Department can exclude them from the proposed expansion and can amend the Proposed Resolution to reflect the exclusion.

**M 599 16
Adopt
R 016 16**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt R 016 16 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT

M 599 16
Adopt
R 016 16
(continued)

(SCUSSD), TO INCLUDE THE PROPERTIES SITUATED ON THE WEST SIDE OF STATE ROUTE 113 & NORTH AND SOUTH OF COUNTY ROAD 26 (NINE FOOT ROAD). THE PARCELS ARE LOCATED IN DAGSBORO HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”, as amended to exclude Parcels 23-10.00-74.00, 74.01, 74.02, and 74.03.

Motion Adopted: 5 Yeas.

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

[Mr. Arlett rejoined the meeting.]

**Old
Business/
Proposed
Sign
Ordinance
(Version 2)**

Under Old Business, the Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE XXI (“SIGNS”) (Second Version).

On September 20th, the Council held a Public Hearing on the Proposed Ordinance and left the public comment period open until the close of business on September 30th; stated that the public could make written comment on recommendations from the Planning and Zoning Commission (anything the Commission proposes to change); and stated that this information is to be brought to Council at the first meeting in October.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on September 8, 2016 at which time action was deferred. On September 22, 2016, the Commission recommended that the application be approved subject to recommended changes, which are incorporated in the minutes of the Planning and Zoning Commission (dated September 22, 2016).

It was noted that, on September 30, 2016, correspondence was received from David Hutt, Attorney. Mr. Hutt’s letter was distributed to Council members.

Jamie Sharp, Assistant County Attorney, commented on the Proposed Ordinance and asked that the Council members read Mr. Hutt’s letter and read the recommendation of the Planning and Zoning Commission; any questions should be submitted to Mr. Lawson and copied to Mr. Sharp by email prior to the Council meeting on October 11th, at which time the Proposed Ordinance is to be discussed under Old Business.

**Old
Business/
CZ 1802**

Lawrence Lank, Director of Planning and Zoning, reported on Change of Zone No. 1802 filed on behalf of J. G. Townsend, Jr. & Co. On August 23rd, the Council held a Public Hearing on this application. On that date, Council deferred action and left the record open for written comments for

**Old
Business/
CZ 1802
(continued)**

one week with the possibility of further extensions of the record remaining open. On August 30th, the Council discussed the application under Old Business and by Motion established that the time period for the receipt of written public comments on Change of Zone No. 1802 would close as of 4:30 p.m. on August 30, 2016. Also on August 30th, the Council adopted the following Motion: “that Councilmembers may ask questions of staff or agencies until the close of business on September 30th (all questions should be funneled through Lawrence Lank, Director of Planning and Zoning, so that there is a record); once answers have been received and reported at a County Council meeting, the record will remain open for the public to comment (in writing) on the information requested (only)”.

Mr. Lank reported that, as of this date (October 4th), two sets of questions have been received from Council members and some of the questions/comments related to similar issues:

Issues relating to the Delaware Department of Transportation (DelDOT):

1. An updated Traffic Impact Study (TIS)
2. If DelDOT is not requiring an updated TIS, please ask the agency to explain its position as to why the current TIS is sufficient for the purpose of considering this application.
3. Is the current TIS sufficient with details supporting their response?
4. Given the amount of time that has passed since the last TIS, why does DelDOT believe current information is not required?
5. What is the DelDOT Level of Service rating and functional classification of both Gills Neck Road and Kings Highway?
6. Will the Level of Service rating change due to the current and future work being done by the Applicant in cooperation with DelDOT?

Issues relating to the State Department of Natural Resources and Environmental Control (DNREC), Sussex County Code, and the Board of Public Works for the City of Lewes:

1. Is the State’s Source Water Protection Area map up-to-date? When was it last updated?
2. Is there any timeframe for updating the Area map?
3. Has the Well Head Protection Area surrounding the Board of Public Works' wells changed in size, location, or depth? Has the purity of the water changed and/or have any new pollutants been detected?

Issues relating to County staff:

1. Is any part of the application’s project within the County required Well Head Protection Area?

**Old
Business/
CZ 1802
(continued)**

2. With this request for rezoning, does the Council have the authority to stipulate, on this property that certain uses, such as gas stations or dry cleaners, are prohibited, since this was proffered by the Applicant.

Mr. Lank advised that staff will obtain responses after which a report will be presented at a future Council meeting.

**Grant
Requests**

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

**M 600 16
Council-
manic
Grant**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to give \$2,500.00 (\$1,250.00 each from Mr. Arlett's and Mr. Cole's Councilmanic Grant Accounts) to Indian River High School for automatic external defibrillators.

Motion Adopted: 5 Yeas.

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

**M 601 16
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to give \$2,000.00 from Mr. Wilson's Councilmanic Grant Account to American Legion Post 8 for World War I Monument.

Motion Adopted: 5 Yeas.

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

**M 602 16
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 (\$500.00 each from Mr. Cole's and Mrs. Deaver's Councilmanic Grant Accounts) to the Rehoboth Art League for arts and arts education.

Motion Adopted: 5 Yeas.

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

**M 603 16
Council-
manic
Grant**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to give \$1,000.00 (\$800.00 from Mr. Arlett's Councilmanic Grant Account and \$200.00 from Mr. Cole's Councilmanic Grant Account) to the Fenwick Island Lions Club for parade expenses.

Motion Adopted: 5 Yeas.

with the current Planning and Zoning Manager, Janelle Cornwell.

**M 607 16
Promote
Janelle
Cornwell/
Planning
and
Zoning
Director
Appointee**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, that the Sussex County Council promotes Janelle Cornwell as the Planning and Zoning Director Appointee, effective immediately, to serve in that position until the retirement of the current Planning and Zoning Director, and at which point Ms. Cornwell shall be appointed Planning and Zoning Director.

Motion Adopted: 5 Yeas.

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

The Council congratulated Janelle Cornwell on her promotion.

**Rules
of Procedure**

Mr. Moore read the Rules of Procedure for Public Hearings.

**Public
Hearing
(CU 2055)**

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 PRIVATE AIRPORT WITH LANDING FIELD WITH TIE-DOWN AND PARKING AREA TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.7 ACRES, MORE OR LESS” (Conditional Use No. 2055) filed on behalf of Jeffrey Allen Chorman and Molly Murphy Chorman (Tax I.D. No. 330-8.00-46.00 (Part of) (911 Address: Not Available).

The Planning and Zoning Commission held a Public Hearing on this application on August 25, 2016 at which time action was deferred. On September 22, 2016, the Commission recommended that the application be approved, with the following conditions:

- A. The use shall be limited to a private airport as permitted in an Agricultural Preservation District under Title 3 Section 909 of the Delaware Code.**
- B. No chemicals associated with aerial spray operations shall be stored on the site.**
- C. 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 25 and September 22, 2016.)

Lawrence Lank, Director of Planning and Zoning, provided a summary of the Planning and Zoning Commission’s Public Hearing and recommendation of approval.

**Public
Hearing
(CU 2055)
(continued)**

Mr. Lank distributed Exhibit Booklets previously provided by the Applicant.

The Council found that Robert Gibbs, Attorney, was present with the Applicant, Jeffrey Allen Chorman. Mr. Gibbs reviewed the survey showing the “Chorman Airstrip Plan” for a private airport with landing field with tie-down and parking area (±5.7 acres). They stated that the application is for a private landing strip for personal use; that the area will be leased to Jeff and Molly Chorman from Sharp Farms Limited Partnership; that the Sharp Farms surrounds the ±5.7 acre leasehold; that DelDOT’s report showed no change in traffic; that DelDOT did not require a Traffic Impact Study; that the property is located in an Agricultural Preservation District; and that the proposed use is permitted by the Delaware Agricultural Lands Preservation Act.

Mr. Gibbs noted that proposed Findings of Fact are included in the Exhibit Booklet.

In response to questions raised by Mr. Cole, Mr. Chorman stated that he does not have any objection to the use being limited to a maximum of four private aircraft on the premises.

There were no public comments and the Public Hearing was closed.

**M 608 16
Amend
Conditions/
CU 2055**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend the conditions recommended by the Planning and Zoning Commission to include the following new condition: “There shall be no more than four (4) aircraft parked on the premises on a permanent or semi-permanent basis.”

Motion Adopted: 5 Yeas.

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

**M 609 16
Adopt
Ordinance
No. 2465
(CU 2055)**

A Motion was by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2465 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRIVATE AIRPORT WITH LANDING FIELD WITH TIE-DOWN AND PARKING AREA TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.7 ACRES, MORE OR LESS” (Conditional Use No. 2055) filed on behalf of Jeffrey Allen Chorman and Molly Murphy Chorman, as amended, with the following conditions:

A. The use shall be limited to a private airport as permitted in an Agricultural Preservation District under Title 3 Section 909 of the Delaware Code.

**M 609 16
Adopt
Ordinance
No. 2465
(CU 2055)
(continued)**

- B. No chemicals associated with aerial spray operations shall be stored on the site.**
- C. There shall be no more than four (4) aircraft parked on the premises on a permanent or semi-permanent basis.**
- D. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2056**

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 AN OFFICE, STORAGE OF VEHICLES AND EQUIPMENT AND REPAIR OF EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.06 ACRES, MORE OR LESS” (Conditional Use No. 2056) filed on behalf of Raynol E. Garcia (Tax I.D. No. 330-15.00-20.01) (911 Address: 7411 Marshall Street, Lincoln).

The Planning and Zoning Commission held a Public Hearing on this application on August 25, 2016 at which time the Commission deferred action. On September 22, 2016, the Commission recommended that the application be approved with the following conditions:

- A. The use of land shall be limited to an office, storage of vehicles and equipment, and indoor repair of equipment.**
- B. There shall be no retail sales or services on the property.**
- C. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- D. Any dumpsters on the site are to be screened from view of neighboring properties and roadways, and located behind the existing building.**
- E. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- F. The hours of operation shall be Monday through Saturday from 6:00 a.m. to 6:00 p.m.**
- G. Signage shall not exceed 32 square feet on each side and shall not be lighted.**
- H. No mixing or crushing of materials shall occur on the site.**
- I. Temporary short-term storage of materials shall be allowed on the site. No permanent storage of materials shall be allowed on the site.**
- J. Any equipment repairs must occur inside of the buildings on the site.**
- K. Substantial Buffers shall be installed on the property to screen it from view. A landscape plan shall be included with the Final Site Plan.**

**Public
Hearing/
CU 2056
(continued)**

L. 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 25 and September 22, 2016.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and recommendation of approval.

The Council found that Daniel Perez was present on behalf of Raynol Garcia and Delaray Foundations, Inc. Mr. Perez presented a survey and noted that they have placed the recommended conditions on it. Mr. Perez referenced the updated site plan and he stated that there will be no containers of gasoline on the site; that there will be no transport of gasoline not any filling up of gasoline; that there may be gasoline for landscaping purposes only; that any containment of any materials will be short term and kept in secured containers, i.e. temporary storage before transporting to a job site; and that some soundproofing barriers will be installed and they will be added to the site plan.

There were no public comments and the Public Hearing was closed.

**M 610 16
Adopt
Ordinance
No. 2466
(CU 2056)**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt Ordinance No. 2466 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE, STORAGE OF VEHICLES AND EQUIPMENT AND REPAIR OF EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.06 ACRES, MORE OR LESS" (Conditional Use No. 2056) filed on behalf of Raynol E. Garcia, with the following conditions:

- A. The use of land shall be limited to an office, storage of vehicles and equipment, and indoor repair of equipment.**
- B. There shall be no retail sales or services on the property.**
- C. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- D. Any dumpsters on the site are to be screened from view of neighboring properties and roadways, and located behind the existing building.**
- E. The applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- F. The hours of operation shall be Monday through Saturday from 6:00 a.m. to 6:00 p.m.**
- G. Signage shall not exceed 32 square feet on each side and shall not be lighted.**
- H. No mixing or crushing of materials shall occur on the site.**
- I. Temporary short-term storage of materials shall be allowed on the site. No permanent storage of materials shall be allowed on the site.**

**M 610 16
Adopt
Ordinance
No. 2466
(CU 2056)
(continued)**

- J. Any equipment repairs must occur inside of the buildings on the site.**
- K. Substantial Buffers shall be installed on the property to screen it from view. A landscape plan shall be included with the Final Site Plan.**
- L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ 1806**

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 NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 3.034 ACRES, MORE OR LESS” (Change of Zone No. 1806) filed on behalf of WYWJ Ventures, LLC (Tax Map I.D. No. 530-14.00-21.00) (911 Address: 14392 Sussex Highway, Bridgeville).

The Planning and Zoning Commission held a Public Hearing on this application on August 25, 2016 at which time action was deferred. On September 22, 2016, the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated August 25 and September 22, 2016.)

Lawrence Lank, Director of Planning and Zoning, provided a summary of the Planning and Zoning Commission’s Public Hearing and recommendation of approval.

In response to a question raised by Mr. Cole, Mr. Lank reviewed other commercial uses in the area.

Mr. Cole expressed concern that the Applicant has no plans for the property, with the exception of selling it.

The Council found that Wai-Hong Lui, Managing Partner of WYWJ Ventures, LLC, was present and stated that they have owned the property for over 15 years; that they are hoping to sell or lease it; that the building on the site was previously used as a builders office and additional parking was added making it a commercial/business property and not a residential property; that there are no plans to flip the property; and that the majority of the area is zoned commercial.

There were no public comments and the Public Hearing was closed.

**M 611 16
Adopt
Ordinance
No. 2467/
CZ 1806**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to Adopt Ordinance No. 2467 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 NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 3.034 ACRES, MORE OR LESS” (Change of Zone No. 1806) filed on behalf of WYWJ Ventures, LLC.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ 1807**

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 NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 8.0475 ACRES, MORE OR LESS” (Change of Zone No. 1807) filed on behalf of WYWJ Ventures, LLC” (Tax Map I.D. No. 131-19.00-4.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on August 25, 2016 at which time action was deferred. On September 22, 2016, the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated August 25 and September 22, 2016.)

Lawrence Lank, Director of Planning and Zoning, provided a summary of the Planning and Zoning Commission’s Public Hearing and recommendation of approval.

The Council found that Wai-Hong Lui, Managing Partner of WYWJ Ventures, LLC, was present and stated that the property is adjacent to or near other commercial and industrial properties along U.S. Route 13; that the property is adjacent to a junk yard; that two neighboring properties currently have businesses operating on their properties and are still zoned residential; and that the AR zone and the CR zone have a maximum height of 42 feet and that a neighboring property is Heavy Industry which has a maximum height of 125 feet, so his proposed rezoning would not result in blocking neighboring views.

There were no public comments and the Public Hearing was closed.

**M 612 16
Adopt
Ordinance
No. 2468
(CZ 1807)**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to Adopt Ordinance No. 2468 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 NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 8.0475 ACRES, MORE OR LESS" (Change of Zone No. 1807) filed on behalf of WYWJ Ventures, LLC.

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(CZ 1808)**

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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.9192 ACRES, MORE OR LESS" (Change of Zone No. 1808) filed on behalf of William T. Peden III (Tax Map I.D. No. 235-30.00-63.00 and 63.01) (911 Address: 26526 Lewes Georgetown Highway, Harbeson).

The Planning and Zoning Commission held a Public Hearing on this application on August 25, 2016 at which time the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated August 25, 2016.)

Lawrence Lank, Director of Planning and Zoning, provided a summary of the Planning and Zoning Commission's Public Hearing and recommendation of approval.

The Council found that William Peden was present and he stated that he has owned the property since 1999; that the property has been utilized for an office for his construction business, a showroom, and artisans/artist space after receiving Conditional Use approval for those uses; that he intends to continue those uses and to add additional uses (which would be permitted under CR-1 zoning); that he is asking to bring the front parcel into compliance with the appropriate zoning and to bring the entire property into one zoning classification, CR-1 Commercial Residential.

Mr. Lank noted that there have been two previous Conditional Uses for this site: one was for a contracting business and one was for an artisans/artist space display area.

There were no public comments and the Public Hearing was closed.

**M 613 16
Adopt
Ordinance
No. 2469
(CZ 1808)**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt Ordinance No. 2469 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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.9192 ACRES, MORE OR LESS” (Change of Zone No. 1808) filed on behalf of William T. Peden III.

Motion Adopted: 5 Yeas.

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

**M 614 16
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 2:40 p.m.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, 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.}