

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 9, 2018

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 9, 2018, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 553 18
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of October 2, 2018 were approved by consent.

**Public
Comments**

Public Comments

Paul Reiger commented on requests for Special Use Exceptions being heard by the Board of Adjustment.

Dan Kramer commented on the County's response to the letter from the Delaware Coalition for Open Government. Mr. Kramer also commented on the Board of Adjustment.

**Wastewater
Agreement**

Mr. Lawson presented a wastewater agreement for the Council's consideration.

**M 554 18
Execute
Wastewater
Agreement**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, for Sussex County Project No. 81-04, Agreement No. 830-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement

**M 554 18
Execute
Wastewater
Agreement
(continued)**

between Sussex County Council, and OA-BP Marina Bay-Lakeside, LLC for wastewater facilities to be constructed in Peninsula – Phase 1C – Sailside, located in the Long Neck Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

**Adminis-
trator's
Report**

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

1. Comprehensive Land Use Plan Workshop

A reminder that Council will host a Comprehensive Land Use Plan Workshop on Monday, October 15th, at 10:00 a.m. in Council Chambers. The focus of the workshop will be the comments on the draft Comp Plan received from the Office of State Planning and the Council's response to the comments.

2. Advisory Committee on Aging & Adults with Physical Disabilities Conference Planning Subcommittee Meeting

The Advisory Committee on Aging & Adults with Physical Disabilities Conference Planning Subcommittee will meet on Monday, October 15th, at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard in Georgetown. The Subcommittee will continue to discuss planning for their next conference scheduled for May 9, 2019. A copy of the agenda is attached.

3. 9-1-1 Awareness Day

The Sussex County Emergency Operations Center will host its 19th annual 9-1-1 Awareness Day on Thursday, October 11th, from 9:00 a.m. to 2:00 p.m. at the public safety complex located at 21911 Rudder Lane near Georgetown. The event is held each year to give the public a better understanding of how the 9-1-1 Center operates, as well as give citizens a glimpse into how police, firefighters, medical personnel, and emergency dispatchers work each day to save lives. The event also attracts over 1,000 fifth-grade students from throughout the County who spend the day watching and taking part in demonstrations that reinforce safety and preparedness.

This year's event will feature a fun and information-filled day of safety demonstrations and emergency vehicles on display, from police K-9s subduing pretend perpetrators to fire trucks, EMS units, and police units. In addition to tours of the 9-1-1 Center, displays and activities will include the Delaware State Police K-9 Team, the Blades Fire Company Safety House, the State Fire Marshal's Office, the Delaware

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

State Fire School, the Delaware Emergency Management Agency, and the Delaware Department of Natural Resources and Environmental Control.

The event is sponsored by Sussex County and the Delaware State Police, which jointly operate the 9-1-1 Center, and is free and open to the public. A rain date is scheduled for next Thursday, October 18, 2018.

4. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Coastal Club - Land Bay 3 - Phase B (Construction Record) received Substantial Completion effective October 5th.

5. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, October 16th. The next regularly scheduled Council meeting will be held on October 23rd at 10:00 a.m.

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

**Public
Hearing/
Issuance
of General
Obligation
Bonds/
Herring
Creek**

A Public Hearing was held on the Proposed Ordinance relating to "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$5,601,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO HERRING CREEK AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

This Ordinance provides for the issuance of up to \$5,601,000 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of an extension of sanitary sewer services to Herring Creek.

There were no public comments.

The Public Hearing and public record were closed.

**M 555 18
Adopt
Ordinance
No. 2604**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Ordinance No. 2604 entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$5,601,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO HERRING CREEK AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH".

**M 555 18
(continued)**

Motion Adopted: 5 Yeas.

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

**Diamond
Acres SLD/
Request
to Post
Notices**

Hans Medlarz, County Engineer, reported on a request from the Diamond Acres Community to expand the streetlighting district; petitions were circulated and, to date, twenty-five (25) positive and six (6) negative responses were received. Mr. Medlarz stated that the Engineering Department is ready to proceed to a public hearing, as per County Code.

**M 556 18
Authorize
Posting of
Notices/
Diamond
Acres SLD**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the Sussex County Engineering Department is hereby authorized to prepare and post notices for a public hearing for the Diamond Acres Streetlighting District Extension.

Motion Adopted: 5 Yeas.

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

**Western
Sussex
District
Area
Expansion**

Mr. Medlarz provided a Western Sussex Update and reported on two funding opportunities for grant funding which require a match: DNREC is now accepting matching grant proposals for Statewide Community Water Quality Improvement projects up to \$75,000 and for water quality improvement projects within Delaware's portion of the Chesapeake Bay watershed up to \$300,000. The Sussex Conservation District is eligible to apply and has approached Sussex County and offered to assume the lead in the Bridgeville Branch restoration as well as the grant application. Therefore, the Engineering Department is requesting that Council support the District's application and pledge funding of up to \$250,000 previously allocated through the Western Sussex District Area expansion project should the Sussex Conservation District be successful in the pursuit of one or both of these solicitations.

**M 557 18
Agree to
Match
Funding/
Western
Sussex
District
Area
Expansion**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Sussex County Council agrees to match funding up to \$250,000 if the Sussex Conservation District is successful in obtaining a grant through the DNREC Community Water Quality Improvement Project Program for the Bridgeville Branch restoration and environmental project within the Western Sussex District Area Expansion.

Motion Adopted: 5 Yeas.

**M 557 18
(continued)**

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

**Introduction
of Proposed
Ordinances**

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS” (Change of Zone No. 1871) filed on behalf of Masten Realty, LLC (Tax I.D. No. 330-11.00-46.01) (911 Address: 6103 South Rehoboth Boulevard, Milford).

The Proposed Ordinance will be advertised for Public Hearing.

**Compre-
hensive
Plan PLUS
Comments
Update**

Janelle Cornwell, Planning and Zoning Director, reported that the State’s PLUS comments regarding the County’s Comprehensive Plan was forwarded to the Consultant, McCormick Taylor, and the Consultant has responded back with recommendations. The PLUS comments and the Consultant’s recommendations will be discussed at the Comprehensive Plan Workshop scheduled for Monday, October 15th.

**Public
Hearing/
Proposed
Ordinance/
Calculation
of Permitted
Density**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE III (“PROVISIONS APPLICABLE TO ALL DISTRICTS”), ARTICLE IV (“AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS”) AND ARTICLE XXV (“SUPPLEMENTARY REGULATIONS”) WITH RESPECT TO THE CALCULATION OF PERMITTED DENSITY”.

The Planning and Zoning Commission held a Public Hearing on this application on September 13, 2018; the Public Hearing continued on September 27, 2018. The Commission deferred action on the Proposed Ordinance on both dates.

(See the minutes of the Planning and Zoning Commission dated September 13 and September 27, 2018.)

Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, presented the proposed ordinance amendment.

This Ordinance amends Sussex County Code to define density calculations in the zoning districts and to exclude wetlands from density calculations as set forth above. This includes density calculations for lots in an AR-1 cluster subdivision, lots in the ESDDOZ subdivisions, and lot area calculations for multi-family dwellings in all districts.

Public Hearing/ Proposed Ordinance/ Calculation of Permitted Density (continued)

Ms. Cornwell reported that 24 letters were received in support of the Proposed Ordinance, 6 letters were received in opposition to the Proposed Ordinance, and 3 letters commenting on the Proposed Ordinance were received.

Mr. Burton noted that he introduced the Proposed Ordinance for the purpose of protecting the environment around State wetlands. He stated that the way the County currently calculates density is on the entire parcel and the Proposed Ordinance would subtract out the State titled wetlands from the density calculation; it does not refer to federal wetlands nor isolated wetlands. Mr. Burton stated that the proposed density calculation has been included in the past two Comprehensive Plans and it is in the current draft Comprehensive Plan.

It was noted that an email in opposition to the Proposed Ordinance was received from Bobby Horsey; Mr. Horsey was unable to attend the Public Hearing.

Public comments were heard.

Michael Johnson, Chuck Schonder, Ric Moore, Michelle Schmidt (representing the Delaware Center for the Inland Bays), Kit Zak, John Hurlock, Lisa Wol (representing the Nanticoke Watershed Alliance), Jeanette Akhter, Jeff Stone (on behalf of SARG - Sussex Alliance for Responsible Growth), Matt Abbott (on behalf of Abbotts Nature Center), Debra Evalds, William Zak and Anna Vonlindenberg spoke in support of the Proposed Ordinance. They commented on: the importance of coastal wetlands and buffer inland areas, flooding and pollution concerns, carrying capacity limits, and contaminated watersheds. They stated that wetlands can be used to the detriment of the County and the benefit of developers; that historically, wetlands do not have any value (except environmental); that it is common sense that you cannot build on wetlands; that wetlands provide better water quality due to filtering; that the County needs to continue protecting the environment; that houses should not be allowed to be built so close together; that impervious surface is rapidly growing; that there is a fundamental concern for the environment and global warming; that buffers in the entire State need to be looked at; that farmers and farmlands need to be protected; that the interests of everyone needs to be protected; that the ordinance would prevent the concentration of density near wetlands and waterways and would reduce the exposure of future residents and their properties to flooding; that wetlands are essential for the maintenance of the fish and wildlife populations; that wetlands and their beneficial functions in the Inland Bays Watershed have declined greatly over time and are overall in poor condition due to disturbances such as development; that salt marshes in particular would benefit from this ordinance as they must migrate inland with sea level rise in order to survive; that more open space and permeable surfaces in developments along with wetlands will reduce the potential for damages from costly flood events; that Sussex County has the weakest standards for protecting

**Public
Hearing/
Proposed
Ordinance/
Calculation
of Permitted
Density
(continued)**

aquifers and buffers; that greater protection from hurricanes is needed; that more generous buffers are needed; that annexation of properties by municipalities allowing greater densities in developments is a concern; that the culture of the area needs to be protected; that cumulative impacts are real; that wetlands and natural areas are one of Delaware's most precious resources and must be protected; that Delaware is losing wetland acreage mainly due to residential development; and that waterways are being threatened by increased density.

Jay Baxter, Ring Lardner (on behalf of ACEC), Jim Erikson, and Dan Kramer spoke in opposition to the Proposed Ordinance. Jay Baxter commented on the Proposed Ordinance and stated that the Proposed Ordinance would take away the equity in his land, reducing the value of his properties; that wetlands are not worthless and the banks establish a worth of that land; that the farmers' way of life needs to be protected; that wetlands are already protected; that the Proposed Ordinance will create sprawl westward; that he encourages the scheduling of a workshop and that he encourages Council to allow more comment; and that he wants to get more letters from farmers and the Sussex County Farm Bureau who oppose the Proposed Ordinance. Mr. Lardner discussed Kent and New Castle counties calculation of wetlands. He also discussed wetlands maps and defining developable lands. Mr. Lardner stated that the Proposed Ordinance will promote sprawl and will negatively affect the environment. He stated that that the County will have to extend out the area needing roads and infrastructure for future residents. Mr. Lardner stated that, currently in the Code, the only zoning district that requires tidal wetlands to be excluded from the density calculation is a RPC; all other zoning districts for over 35 years have been based on the gross acreage. He questioned how density bonus will be affected and stated that as more delineations are needed to clearly define what is developable land, more work will be created for DNREC and the Army Corps of Engineers; that the Proposed Ordinance will have negative effects on the farming community, the environment, and the current and future Sussex County residents; that it will have a profound effect on development and the ultimate yield of a property; that when that yield is not met, more land will need to be developed; and that a working group should be formed to further discuss this issue. Mr. Erikson stated that when demand increases, it results in sprawl; that the Level of Service of the roads will be negatively affected; that options for transportation will be reduced; and that a working group should be formed. Mr. Kramer stated that the Proposed Ordinance will affect the farmer because he will be unable to borrow money; that lower density does not save land; that higher density is needed; and that if the Proposed Ordinance is approved, the County will be sued.

Robert Tunnell III commented on the Proposed Ordinance and stated that he previously submitted a letter into the record. He referenced fields where there are a number of ditches and noted that permits can be obtained to remove, move or fill those ditches and different stormwater management on the property will be created; that the negative impact would be that those

**Public Hearing/
Proposed Ordinance/
Calculation of Permitted Density
(continued)**

ditches are no longer there and are no longer considered wetlands; that the wetlands definition in County Code is static and that exact definition should not be used; that wetlands lines and delineations do move; that the definition of wetlands in the County Code is as follows: “A private or State wetland as defined by DNREC (Delaware Department of Natural Resources and Environmental Control) regulations and maps as promulgated pursuant to Chapter 66, Title 7, of the Delaware Code, as the chapter appears upon the date of the adoption of this Article.; that this Article in the Delaware Code was adopted in 1988, so the County is dealing with a static wetlands definition and a static set of wetlands maps from DNREC from 1988; that the wetlands lines have changed since 1988; and that, as written, the Proposed Ordinance does not work.

Marsha Williams questioned whether or not a building can use a wetlands area to serve as a buffer area. Ms. Cornwell stated that she will look into this matter.

There were no additional public comments.

Mr. Arlett stated that he would like to hear from DNREC regarding the Proposed Ordinance.

**M 558 18
Defer
Action on
Proposed Ordinance/
Calculation of Permitted Density**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to defer action on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE III (“PROVISIONS APPLICABLE TO ALL DISTRICTS”), ARTICLE IV (“AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS”) AND ARTICLE XXV (“SUPPLEMENTARY REGULATIONS”) WITH RESPECT TO THE CALCULATION OF PERMITTED DENSITY” and to leave the record open for 30 days for written public comments (including written comments from DNREC).

Motion Adopted: 5 Yeas.

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

**M 559 18
Go Into
Executive Session**

At 12:54 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending/potential litigation and land acquisition.

Motion Adopted: 5 Yeas.

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

Executive Session At 1:00 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to pending/potential litigation and land acquisition. The Executive Session concluded at 1:38 p.m.

M 560 18 Reconvene Regular Session At 1:43 p.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 4 Yeas, 1 Absent.

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

Action There was no action on Executive Session matters.

Rules Mr. Moore reviewed the rules of procedure for public hearings.

Mr. Wilson joined the meeting.

Public Hearing/ CU 2143 A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A PETROLEUM FUEL STORAGE AND OFFICE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.9475 ACRES, MORE OR LESS” (Conditional Use No. 2143) filed on behalf of Tri Gas & Oil Co., Inc. (Tax I.D. No. 135-14.00-66.10 and 135-14.00-66.07 (portion of) (911 Address: 20205 DuPont Boulevard, Georgetown).

The Planning and Zoning Commission held a Public Hearing on this application on September 13, 2018 at which time action was deferred. On September 27, 2018, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated September 13 and 27, 2018.)

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

It was noted that Exhibit Booklets were provided by the Applicant.

The Council found that Shannon Carmean Burton, Attorney, was present with Nash McMahan, Vice President of Tri Gas & Oil Co. and Michael Kobin, Professional Engineer with George Miles and Buhr. Ms. Burton and Mr. Korbin stated that the application is for a petroleum fuel storage and office facility; that TriGas has historically used the property for purposes of bulk fuel and parts storage; that the property is currently approved for two fuel storage tanks with a small storage building per Conditional Use No.

**Public
Hearing/
CU 2143
(continued)**

1080 approved in 1994; that the proposed office facility is to be a single-story building consisting of 3,200 square feet; that the adjoining property owner, Randolph E. Gooner, supports the application; that the land is being acquired from Mr. Gooner and an agreement has been reached regarding a shared entrance along Route 113; that the entrance will meet DeIDOT's requirements; that DeIDOT has determined that a Traffic Impact Study is not required; that there will be thirteen parking spaces for customers and nine spaces for employees; that the use will have no adverse impact on neighboring properties; that propane fueling would be open to the public; that there will also be a roll-off service at the property; that the use is located on a major arterial roadway where other commercial uses exist; and that the application is for the expansion of an existing use. Ms. Burton and Mr. Korbin reviewed the preliminary site plan including parking, above ground petroleum storage an tank storage, entrance, relocation of two tanks, existing and proposed buildings on the site; propane fueling at the canopy, and roll-off service.

There were no public comments.

The Public Hearing and public record were closed.

**M 561 18
Adopt
Ordinance
No. 2605
(CU 2143)**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2605 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A PETROLEUM FUEL STORAGE AND OFFICE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.9475 ACRES, MORE OR LESS" (Conditional Use No. 2143) filed on behalf of Tri Gas & Oil Co., Inc., with the following conditions:

- A. As stated by the Applicant, the operational area behind the office building shall be fenced for security purposes.
- B. There shall be thirteen (13) parking spaces for customers and nine (9) parking spaces for employees.
- C. As stated by the Applicant, there is currently lighting on the property. Additional lighting may be added for security purposes. Any additional lighting shall be downward screened so that it does not shine upon neighboring properties or roadways.
- D. Because the property is zoned C-1 General Commercial, any signage shall comply with the sign requirements for the C-1 District.
- E. 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: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
CU 2152**

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 AMENDMENT TO A CONDITION OF APPROVAL OF CONDITIONAL USE NO. 1771 (ORDINANCE 2056) AND CONDITIONAL USE NO. 2020 (ORDINANCE 2410) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.93 ACRES, MORE OR LESS” (Conditional Use No. 2152) filed on behalf of Charles Auman (Tax I.D. No. 330-11.17-20.00 & 330-15.05-6.00) (911 Address: 7158 Marshall Street, Lincoln).

The Planning and Zoning Commission held a Public Hearing on this application on September 13, 2018 at which time action was deferred. On September 27, 2018, the Commission recommended approval for the following reasons:

- 1. Condition #4 currently states that “One lighted sign, not to exceed 32 square feet in size, shall be permitted. The proposed sign location shall be shown on the Final Site Plan.**
- 2. Section 115-161.1 of the Zoning Code states that On-Premises Electronic Message Displays can only be allowed in the AR-1 Zone “if specifically permitted as part of a conditional use”. This is the reason that the Applicant is seeking an amendment to his Conditional Use to allow the Electronic Message Display.**
- 3. The Applicant explained that the Electronic Message Display is needed to advertise the services of the storage facility that was approved by the Conditional Use for the property.**
- 4. The Applicant stated that he understands that the Zoning Code governs brightness, no animation after dark and other factors regarding how the sign will be operated so that it will not have an adverse effect on neighboring properties or roadways.**
- 5. No parties appeared in opposition to the requested sign.**
- 6. Condition #4 of Conditional Use #1771 and Ordinance #2056 should be amended to state: “One Electronic Message Center sign, not to exceed 32 square feet in size, shall be permitted. The proposed sign location shall be shown on the Final Site Plan”.**

(See the minutes of the Planning and Zoning Commission dated September 13 and 27, 2018.)

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

Tim Willard, Attorney, was present to represent the Applicant. Mr. Willard presented the application and referenced the prior Conditional Use approval for storage facilities (Conditional Use #1771) stating that Mr. Auman wishes to amend Condition #4 of Conditional Use #1771 to allow for a 4’ x 5’ electronic message display sign; that it will be easier to change his advertisements on an electronic sign; that the sign would be at the entrance of the property along Marshall Street; and that he wants to use the sign to

**Public
Hearing/
CU 2152
(continued)**

advertise hours, specials, etc.

The Council discussed animation, sign size, and the proposed location of the sign.

There were no public comments.

The Public Hearing and public record were closed.

**M 562 18
Amend
Reason for
Approval/
Amending
Condition**

A Motion was made by Mr. Burton, seconded by Mr. Arlett, to amend the Planning and Zoning Commission's Reason No. 6, as follows: Condition #4 of Conditional Use #1771 and Ordinance #2056 should be amended to state: "One Electronic Message Center sign, not to exceed 20 square feet in size, shall be permitted. The proposed sign location shall be shown on the Final Site Plan".

Motion Adopted: 5 Yeas.

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

**M 563 18
Adopt
Ordinance
No. 2606/
CU 2152**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to Adopt Ordinance No. 2606 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO A CONDITION OF APPROVAL OF CONDITIONAL USE NO. 1771 (ORDINANCE 2056) AND CONDITIONAL USE NO. 2020 (ORDINANCE 2410) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.93 ACRES, MORE OR LESS" (Conditional Use No. 2152) filed on behalf of Charles Auman, for the following reasons, as amended.

- 1. Condition #4 currently states that "One lighted sign, not to exceed 32 square feet in size, shall be permitted. The proposed sign location shall be shown on the Final Site Plan.**
- 2. Section 115-161.1 of the Zoning Code states that On-Premises Electronic Message Displays can only be allowed in the AR-1 Zone "if specifically permitted as part of a conditional use". This is the reason that the Applicant is seeking an amendment to his Conditional Use to allow the Electronic Message Display.**
- 3. The Applicant explained that the Electronic Message Display is needed to advertise the services of the storage facility that was approved by the Conditional Use for the property.**
- 4. The Applicant stated that he understands that the Zoning Code governs brightness, no animation after dark and other factors regarding how the sign will be operated so that it will not have an adverse effect on neighboring properties or roadways.**
- 5. No parties appeared in opposition to the requested sign.**

**M 563 18
Adopt
Ordinance
No. 2606/
CU 2152
(continued)**

6. Condition #4 of Conditional Use #1771 and Ordinance #2056 should be amended to state: “One Electronic Message Center sign, not to exceed 20 square feet in size, shall be permitted. The proposed sign location shall be shown on the Final Site Plan”.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ 1857**

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 B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.3673 ACRE, MORE OR LESS” (Change of Zone No. 1857) filed on behalf of Elisabeth Ann Burkhardt (Tax I.D. No. 335-8.18-28.00) (911 Address: 1500 Savannah Road, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on September 13, 2018 at which time action was deferred. On September 27, 2018, the Commission recommended denial.

(See the minutes of the Planning and Zoning Commission dated September 13 and 27, 2018.)

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

The Council found that Kristin Collison, Attorney, was present on behalf of the Applicant. She stated that the Applicant’s mother previously ran a professional office out of the home and after the mother passed away, the daughter converted it back to a residence; that the daughter has placed the property up for sale; that Kathy Madden is a counselor and is looking to use the property for her practice; that she is a sole practitioner; that the Applicant is requesting B-2 zoning which is appropriate in this area for the proposed use; that the property only consists of 0.3673 acres so its use is limited; that there is no intent to modify the home on the property; that one parking spot will be added; and that the Applicant was told to file for C-2 zoning. Ms. Collison discussed other commercial zonings and uses in the area and discussed the commercial trend of the area.

Public comments were heard.

Derek Cole, a resident in the area, spoke in support of the application. He questioned why there are so many Conditional Uses in the area instead of zoning changes and stated that there is not a lot of oversight for Conditional Uses. He stated that he supports this application because

**Public
Hearing/
CZ 1857
(continued)**

it is for a Change of Zone which is more predictable.

There were no additional public comments.

The Public Hearing and public record were closed.

Mr. Moore noted that the Planning and Zoning Commission recommended denial of the application and therefore, no Findings of Fact have been prepared for the approval of the application. He further noted that if Council wants Findings of Fact prepared for consideration, action will have to be deferred to allow time for legal staff to prepare the Findings.

**M 564 18
Defer
Action on
CZ 1857**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to defer action for two weeks on Change of Zone No. 1857 filed on behalf of Elisabeth Ann Burkhardt to allow time for legal staff to prepare Findings of Fact.

Motion Adopted: 3 Yeas, 2 Nays.

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

**M 565 18
Adjourn**

At 2:55 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to adjourn.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

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