

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 24, 2017**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 24, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 529 17  
Approve  
Agenda**

A Motion was made by Mr. Arlett, 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 10, 2017 were approved by consent.

**Public  
Comments**

**Public Comments**

The following people spoke regarding right-to-work legislation: Steven Bea, William Glass, Charlie Timmons, Kevin Fasic, and Kevin Burdette.

Rick Bell spoke in support of the proposed sports complex and the need for additional sports fields (pickleball, soccer, etc.) in Sussex County.

Mr. Vincent paused the Public Comments portion of the meeting so that Council could hold the scheduled 10:15 a.m. Public Hearing.

**Public  
Hearing/  
Pratt  
Expansion/  
SCUSSD**

A Public Hearing was held on the proposed expansion of the boundary of the Sussex County Unified Sanitary Sewer District (Bay View Estates Area) (Pratt Expansion). John Ashman, Director of Utility Planning, reported that the property owner of Parcel 533-19.00-56.00 has requested the annexation. The owner is demolishing the existing cottage and is building a

**Public  
Hearing/  
Pratt  
Expansion/  
SCUSSD  
(continued)**

new residence. The parcel is adjacent to a County sewer district and the Engineering Department has planned capacity for the parcel. A lateral was installed for the parcel as part of a previous project in the area. The project will be responsible for system connection charges in place at the time of connection. Mr. Ashman reported that, to date, no responses to the posting have been received.

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

**M 530 17  
Adopt  
R 029 17**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Resolution No. R 029 17 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) BAY VIEW ESTATES AREA, TO INCLUDE A PARCEL OF LAND (533-19.00-56.00) ALONG THE EAST SIDE OF WILLIAMSVILLE ROAD LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE".

Motion Adopted: 5 Yeas.

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

**Public  
Comments  
(resumed)**

**Public Comments (resumed)**

Carl Bodine, Betty McGrath, Jermaine Johnson, John Brown, Maurice McGrath, Bianca Rodriquez, John Rodriquez, John Reichert, Theodore Kittila, Senator Bryant Richardson, Eric Masten, David Stevenson, Sandra Ware, Phoebe Cottingham, Michael O'Halloren, and David Dunphy.

Jason Moshier and Kathy Casey spoke in support of the proposed sports complex and the need for additional sports fields (pickleball, soccer, etc.) in Sussex County.

Paul Reiger commented on the unexpired term of a member of the Planning and Zoning Commission.

Dan Kramer commented on information missing on the County's website.

**M 531 17  
Approve  
Consent  
Agenda  
Items**

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

1. Wastewater Agreement No. 510-3  
Sussex County Project No. 81-04  
The Reserves – Phase 4B  
Ocean View Expansion of the Bethany Beach Sanitary Sewer District

**M 531 17  
Approve  
Consent  
Agenda  
Items  
(continued)**

- 2. Wastewater Agreement No. 984-17  
Sussex County Project No. 81-04  
Coastal Club – Land Bay 3 – Phase B (Construction Record)  
Goslee Creek Planning Area**
- 3. Wastewater Agreement No. 558-12  
Sussex County Project No. 81-04  
Peninsula Lakes – Phase 7A (Construction Record)  
Long Neck Sanitary Sewer District**
- 4. Wastewater Agreement No. 558-13  
Sussex County Project No. 81-04  
Peninsula Lakes – Phase 7B (Pump Station #2 & Force Main)  
Long Neck Sanitary Sewer District**
- 5. Wastewater Agreement No. 940-1  
Sussex County Project No. 81-04  
Marsh Island – Pump Station and Force Main  
Angola Neck Sanitary Sewer District**
- 6. Wastewater Agreement No. 940-2  
Sussex County Project No. 81-04  
Marsh Island – Phase 1A (Construction Record)  
Angola 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. Project Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheet, Peninsula Lakes – Phase 5 (Construction Record) received Substantial Completion effective October 17<sup>th</sup>.**

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

**FY2018  
Human  
Service  
Grants**

**Mrs. Jennings provided a schedule of the FY2018 Human Service Grants and an overview of the program. This program provides grants to countywide non-profit agencies for the purpose of enhancing health and human services, which contribute to a safe, healthy and self-sufficient community. This program provides grants that assist organizations with resources in support of programs or capital purchases.**

**FY2018  
Human  
Service  
Grants  
(continued)**

**Mrs. Jennings explained the application process which is similar to last year's process. She discussed the online application and the formula-based approach to awarding Human Service Grants. Mrs. Jennings outlined the method and criteria for determining recommended grant amounts and presented the recommended Human Service Grants for Fiscal Year 2018 (87 recipients of funds totaling \$225,000.00).**

**M 532 17  
Approve  
FY2018  
Human  
Service  
Grants**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council approves the Fiscal 2018 Human Service Grants allocation, as presented.**

**Motion Adopted: 5 Yeas.**

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

**There was a consensus to increase funding to the homeless and to veterans "as we go forward with these grants".**

**Draft  
Ordinance/  
Right-to-  
Work**

**A discussion was held on the draft ordinance presented to Council on October 10th by Mr. Arlett entitled "AN ORDINANCE RELATING TO THE PROMOTION OF ECONOMIC DEVELOPMENT AND COMMERCE BY REGULATION OF CERTAIN INVOLUNTARY PAYMENTS REQUIRED OF EMPLOYEES IN SUSSEX COUNTY".**

**Mr. Vincent reported that, at the October 10th meeting, he asked Legal Counsel to review the document and to report back to Council. It was noted that Mr. Moore was asked to provide a legal opinion on this matter.**

**Mr. Moore reported on the history of the right-to-work issue and legal cases on the matter, the status of the County's law and in particular, the Delaware Home Rule statute; and the possible legal repercussions if the draft ordinance is introduced/adopted.**

**Mr. Moore commented on the draft ordinance that was presented by Mr. Arlett for introduction on October 10th and he noted that his office did not draft the ordinance. Mr. Moore stated that he has reviewed the draft ordinance and he advised that it is not in proper form to be introduced on this date. Mr. Moore advised that, under 9 Del.C. 7002(m), it sets forth certain requirements for introduction, which the draft ordinance does not meet (the short title needs to be formatted, the ordinance needs the new chapter number in the body of the ordinance, and the body of the ordinance needs certain underscoring and italics).**

**Mr. Moore stated that it is his recommendation and legal opinion that Sussex County does not have the right, under the Home Rule statute, to enact this and also, if the ordinance is attempted to be introduced on this date in its current format, that it would be improper and could be**

**Draft Ordinance/ Right-to Work (continued)**

**challenged.**

**A discussion was held regarding the draft ordinance and it was decided that Mr. Arlett will work with Mr. Moore to make corrections to the draft ordinance so that it will be in the correct format for introduction and further, that the matter be placed on the next agenda (October 31st) for consideration.**

**Grant Request**

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

**M 533 17 Councilmanic Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$1,100.00 (\$220.00 from each Councilmanic Grant Account) to the Mason Dixon Woodworkers for the holiday toy program.**

**Motion Adopted: 5 Yeas.**

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

**Introduction of Proposed Ordinances**

**Mr. Arlett 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 MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 71.379 ACRES, MORE OR LESS" (Change of Zone No. 1846) filed on behalf of CMF Bayside, LLC (Tax I.D. No. 533-19.00-297.00) (911 Address: Not Available).**

**Mr. Vincent 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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.09 ACRES, MORE OR LESS" (Change of Zone No. 1847) filed on behalf of Winsferd Ray Hutchins, Sr. and Josephine C. Hutchins (Tax I.D. No. 132-12.00-102.01) (911 Address: 28506 Sussex Highway, Laurel).**

**Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CERTAIN CONDITIONS OF APPROVAL OF CONDITIONAL USE NO. 2071 (ORDINANCE NO. 2514) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 31.9478 ACRES, MORE OR LESS" (Conditional Use No. 2117) filed on behalf of Blessing Greenhouse and Compost (Tax I.D. No. 230-15.00-34.00 and 35.00) (911**

**Introduction  
of Proposed  
Ordinances  
(continued)**

**Address: 9372 Draper Road, Milford).**

**Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE WITH CONTRACTOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.6425 ACRES, MORE OR LESS” (Conditional Use No. 2118) filed on behalf of John W. Davidson (Tax I.D. No. 234-10.00-70.16) (911 Address: Not Available).**

**The Proposed Ordinances will be advertised for Public Hearing.**

**M 534 17  
Go Into  
Executive  
Session**

**At 11:40 a.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to 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 11:43 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 12:12 p.m.**

**M 535 17  
Reconvene  
Regular  
Session**

**At 12:14 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to come out of Executive Session and to reconvene the Regular Session.**

**Motion Adopted: 3 Yeas, 2 Absent.**

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

**E/S Action**

**There was no action on Executive Session matters.**

**M 536 17  
Recess**

**At 12:14 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to recess until 1:30 p.m.**

**Motion Adopted: 3 Yeas, 2 Absent.**

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

**M 537 17**      **At 1:38 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to reconvene.**  
**Reconvene**

**Motion Adopted:      5 Yeas.**

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

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

**Public Hearing/  
CU 2097**              **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 AUTO-MOBILE AND TRUCK SALES, SERVICE, AND REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS” (Conditional Use No. 2097) filed on behalf of Christopher Lopez (Tax I.D. No. 133-2.00-21.00) (911 Address: 24487 DuPont Boulevard, Georgetown).**

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

**The Planning and Zoning Commission held a Public Hearing on this application on September 14, 2017 at which time action was deferred. On September 28, 2017, the Commission recommended that the application be approved with conditions (A-M), as follows:**

- A.    The Final Site Plan shall show all required parking areas for customers and for cars and trucks that are for sale. These areas shall be clearly designated on the site itself. No parking shall be permitted within the front yard setback.**
- B.    There shall not be any outside storage of junked vehicles, automobile parts, equipment, tires, or other materials used to repair cars or trucks.**
- C.    The only repair work allowed at the shop will be for automobiles, trucks and farm equipment.**
- D.    As proposed by the Applicant, the business will only be operated between the hours of 7:00 a.m. until 6:00 p.m. Monday through Friday, and 7:00 a.m. until 5:00 p.m. on Saturday.**
- E.    There may only be one lighted sign on the property advertising the business, not to exceed 32 square feet in size on either side.**
- F.    Any security lights shall be screened so that they do not shine on neighboring properties or roadways.**
- G.    All loading areas and storage areas shall be screened with a 6-foot high privacy fence.**
- H.    The area for a dumpster shall be located behind the building and shall be screened from view. Its location shall also be shown on the Final**

**Public  
Hearing/  
CU 2097  
(continued)**

**Site Plan.**

- I. All entrances, intersections, roadway improvements, and multi-modal required by DelDOT shall be completed by the Applicant as required by DelDOT and within the time periods required.**
- J. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with all applicable State and County requirements and shall be operated utilizing Best Management Practices.**
- K. As stated by the Applicant, there shall be no more than 5 cars or trucks on site for servicing at any one time.**
- L. The Final Site Plan shall allow for interconnectivity with adjacent properties if they are ever developed or redeveloped.**
- M. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission.**

**(See the minutes of the Planning and Zoning Commission dated September 14 and 28, 2017.)**

**Exhibit Booklets were previously provided by the Applicant and distributed to Council members.**

**The Council found that Mark Davidson of Pennoni Associates was present with the Applicant, Christopher Lopez. Mr. Davidson stated that this application is for an extension to an existing Conditional Use approved in 2012 (CU No. 1901 for automotive service and repair garage) to add automobile and truck sales along with service and repair; that the property is owned by the Applicant; that the Applicant has now purchased additional land (30,000 square feet) to add to his existing Conditional Use site; that he now owns approximately 1 acre total; that as part of this Conditional Use, the existing entrance will be moved to the north side of the building; that they will obtain DelDOT's approval to move the entrance; that the Applicant currently has an operation on Route 113 and Market Street in Georgetown and that he is unable to renew the lease on this site; that the use, with the conditions imposed upon it, will not have an adverse impact on neighboring properties as it is adjacent to a contractor's office and adjacent to the Georgetown Speedway; that the location along U.S. Route 113 is appropriate for the use; that there will be a total of approximately 5 to 6 employees; that it is a family run business; that there will be no more than 5 cars on the property at any time to be serviced and there will be a maximum of 20 vehicles on the site for sale; that no Traffic Impact Study was required; that there will be no storage outside of the building; and that all repairs are performed inside.**

**Mr. Davidson stated that they are requesting a clarification on one of the conditions recommended by the Planning and Zoning Commission (No. 7A) which states "The Final Site Plan shall show all required parking areas for customers and for cars and trucks that are for sale. These areas shall be clearly designated on the site itself. No parking shall be permitted within the front yard setback." Mr. Davidson questioned if the last sentence**



**Public  
Hearing/  
CU 2097  
(continued)**

pertains to parking of customers and/or parking of cars for sale and noted that they are requesting that this condition state clearly that there will be no customer parking in the front yard setback and that it does not pertain to the parking of cars for sale. Mr. Davidson advised that, in the Code, it states that no car sales will encroach within 25 feet of the front yard setback and that they will comply with this.

There were no public comments.

The Public Hearing and public record were closed.

**M 538 17  
Amend  
Condition  
7A**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to amend Condition 7A recommended by the Planning and Zoning Commission, as follows: "The Final Site Plan shall show all required parking areas for customers and for cars and trucks that are for sale. These areas shall be clearly designated on the site itself. No customer parking shall be permitted within the front yard setback."

**Motion Adopted: 5 Yeas.**

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

**M 539 17  
Adopt  
Ordinance  
No. 2527/  
CU 2097**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2527 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTOMOBILE AND TRUCK SALES, SERVICE, AND REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS" (Conditional Use No. 2097) filed on behalf of Christopher Lopez, with the following conditions, as amended:

- A. The Final Site Plan shall show all required parking areas for customers and for cars and trucks that are for sale. These areas shall be clearly designated on the site itself. No customer parking shall be permitted within the front yard setback.
- B. There shall not be any outside storage of junked vehicles, automobile parts, equipment, tires, or other materials used to repair cars or trucks.
- C. The only repair work allowed at the shop will be for automobiles, trucks and farm equipment.
- D. As proposed by the Applicant, the business will only be operated between the hours of 7:00 a.m. until 6:00 p.m. Monday through Friday, and 7:00 a.m. until 5:00 p.m. on Saturday.
- E. There may only be one lighted sign on the property advertising the business, not to exceed 32 square feet in size on either side.
- F. Any security lights shall be screened so that they do not shine on

**M 539 17  
Adopt  
Ordinance  
No. 2527/  
CU 2097  
(continued)**

- neighboring properties or roadways.**
- G. All loading areas and storage areas shall be screened with a 6-foot high privacy fence.**
  - H. The area for a dumpster shall be located behind the building and shall be screened from view. Its location shall also be shown on the Final Site Plan.**
  - I. All entrances, intersections, roadway improvements, and multi-modal required by DelDOT shall be completed by the Applicant as required by DelDOT and within the time periods required.**
  - J. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with all applicable State and County requirements and shall be operated utilizing Best Management Practices.**
  - K. As stated by the Applicant, there shall be no more than 5 cars or trucks on site for servicing at any one time.**
  - L. The Final Site Plan shall allow for interconnectivity with adjacent properties if they are ever developed or redeveloped.**
  - M. The Final Site Plan shall be subject to approval of the 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/  
CZ 1828**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT- RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO AMEND CHANGE OF ZONE NO. 1764 (ORDINANCE NO. 1770) CONDITIONS 17A AND 17D TO EXTEND TIMEFRAME ONE YEAR FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 373 ACRES, MORE OR LESS” (Change of Zone No. 1828) filed on behalf of Coastal Club (a/k/a Marine Farm) (Tax I.D. No. 334-11.00-5.00, 334-11.00-395.00 and 396.00) (911 Address: Not Available).**

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

**The Planning and Zoning Commission held a Public Hearing on this application on September 14, 2017 at which time action was deferred. On September 28, 2017, the Commission recommended that the application be approved.**

**Public  
Hearing/  
CZ 1828  
(continued)**

**(See the minutes of the Planning and Zoning Commission dated September 14 and 28, 2017.)**

**Exhibit Booklets were previously provided by the Applicant and distributed to Council members.**

**The Council found that James Fuqua, Attorney, was present on behalf of the application. Also in attendance were Preston Schell of Coastal Club, Zach Crouch of Davis, Bowen and Friedel, and Bobby Horsey of Horsey Construction Company. Mr. Fuqua presented the application for a one year time extension on two conditions of approval for the RPC for Coastal Club, Change of Zone No. 1764 (Ordinance No. 1770), Conditions 17A and 17D.**

**Mr. Fuqua stated that Condition 17A references construction of sewer transmission for the homes located in Jimtown, which is adjacent to Coastal Club, and which was to be completed by May 22, 2017 and Condition 17D which required construction of a sidewalk within the northeast side of Jimtown Road right-of-way by May 22, 2017. Mr. Fuqua presented the reasons for the time extension request for completion of the improvements.**

**Mr. Fuqua provided a history of the project: the original RPC was known as the Marine Farm which was approved as a MR-RPC in 2005; the original Developer defaulted on their loans; the land was purchased by Coastal Club LLC who took over as the Developer; there was an outstanding question as to whether residents of Jimtown desired the proposed infrastructure improvements that were a condition of approval; the Council settled that issue and required that the improvements be constructed (decision made on 8/18/15); that decision provided that the Developer construct the improvements within three years, but it back-dated the beginning of the three years to the date of the original date of construction (May 23, 2014); thereby the three years was really only 19 months from the time of the decision by Council.**

**Mr. Fuqua explained the engineering aspect of the design of the sewer, water, drainage, sidewalk and road improvements. He noted that the proposed improvements would normally require about 70 feet of right-of-way; however, it had to be fit into an existing 50 feet of right-of-way. He further noted that the design process involved area residents, DelDOT, DNREC, the Fire Marshal's Office and the Sussex County Engineering Department. Mr. Fuqua referred to the letter he submitted on April 28, 2017 requesting a one year time extension and requesting that it be placed on Council's agenda; however, he was advised that the Applicant would have to follow the formal application process to amend the RPC conditions, which was filed on May 9, 2017. Mr. Fuqua reported that, since they filed the application, DelDOT has finished its review of the road improvement plans and issued a letter of approval on August 10, 2017. The letter of approval indicated that no daytime road closures would be allowed on Jimtown Road until October 1st, and the work did start on or about**

**Public  
Hearing/  
CZ 1828  
(continued)**

**October 1st by Mr. Horsey’s construction company and the improvements that are required will be completed on or before May 22, 2018. Mr. Fuqua also reported that as part of DelDOT’s approval, Coastal Club LLC was required to post a performance bond in the amount of 150% of the cost of construction in favor of the State of Delaware. It was reported that the Sussex County Engineering Department has no objection to the requested time extension and the Planning and Zoning Commission recommended approval of the time extension to May 22, 2018.**

**Gerald Allen, resident of Jimtown, spoke in support of the application.**

**Rosalyn Allen Echols (who has interest in a property on Jimtown Road) spoke in opposition to the application. Ms. Echols referenced changes in zoning on two properties in the Jimtown area and changes in the boundary of Jimtown. Ms. Echols spoke in opposition to the application stating that she opposes a time extension because the new infrastructure (i.e. sewer lines and sidewalks and streetlights) will be a financial burden on some residents; that it will culturally change their town; that they want to maintain the integrity of their town; that the roadway/sidewalks will be too close to the homes; and that she is asking that the extension not be granted since approval to construct infrastructure should never have been granted in the first place (without ALL residents agreeing).**

**Ms. Echols was advised by Ms. Cornwell and Hans Medlarz, County Engineer, that there has been no zoning change for the two properties referenced. Ms. Cornwell provided an explanation of the title of the Proposed Ordinance.**

**There were no additional public comments.**

**The Public Hearing and public record were closed.**

**M 540 17  
Adopt  
Ordinance  
No. 2528/  
CZ 1828**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2528 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO AMEND CHANGE OF ZONE NO. 1764 (ORDINANCE NO. 1770) CONDITIONS 17A AND 17D TO EXTEND TIMEFRAME ONE YEAR FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 373 ACRES, MORE OR LESS” (Change of Zone No. 1828) filed on behalf of Coastal Club (a/k/a Marine Farm).**

**Motion Adopted: 5 Yeas.**

**M 540 17  
(continued)**

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

**M 541 17  
Adjourn**

**At 2:47 p.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, 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.}*