

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 25, 2016**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 25, 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 646 16  
Amend  
and  
Approve  
Agenda**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to amend the Agenda by deleting the agenda item entitled "Wastewater Agreement No. 925-1, Sussex County Project No. 81-04, Deerbrook, Long Neck Sanitary Sewer District"; and to approve the Agenda, as amended.

**Motion Adopted: 5 Yeas.**

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

**Minutes**

The minutes of October 11, 2016 were approved by consent.

**Corre-  
spondence**

Mr. Moore read the following correspondence:

**DELAWARE LIONS FOUNDATION, CAMDEN, DELAWARE.  
RE: Letter in appreciation of grant.**

**MILFORD HOUSING DEVELOPMENT CORPORATION, MILFORD,  
DELAWARE.  
RE: Letter in appreciation of grant.**

**Public  
Comments**

**Public Comments**

Paul Reiger referenced an article in the *Cape Gazette* relating to definitions, i.e. number of horses/mules and stables, garages, and pole barns; he also referenced a Facebook post and comments on that post.

**Comments (continued)**      **Dan Kramer commented on the adoption of the Ordinance relating to signs and the need to enforce it.**

**U of D Cooperative Extension Programs**      **Mark Isaacs, Director, University of Delaware Carvel Research and Education Center, thanked Council for its continued support of all of the programs at the Carvel Research and Education Center. Dr. Isaacs gave an overview of how the County's funding is used by the Center in Sussex County: Extension Programs, Poultry Research, Lasher Lab, Crop Programs, Safety Programs and Internship Program. The Council presented a check to Mr. Isaacs for the University of Delaware Carvel Research and Education Center. Mr. Isaacs noted that all funds are used in Sussex County to support the agricultural community.**

**Government Affairs Manager Selection**      **Mr. Lawson announced that Mike Costello has been selected to serve as the County's Government Affairs Manager. Mr. Costello currently serves as the County's Chief Constable and will transition into this new position by the end of the year.**

**Planning and Zoning Commission Nominee**      **Mr. Lawson reported that Mr. Wilson has submitted the name of Keller Hopkins as a nominee for the Planning and Zoning Commission. In accordance with the County's Rules of Procedure and County Code, a public interview process will be held at the November 1st meeting to consider Mr. Keller's appointment to the Commission. Mr. Lawson distributed copies of Mr. Hopkins' resume.**

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

- 1. Delaware Solid Waste Authority Reports**

**There were 31,622 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of July, August, and September. Attached are reports received for each month.**

- 2. Project Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheet, Silver Woods received Substantial Completion effective October 14th.**

- 3. Delaware State Police Town Hall Meeting**

**The Delaware State Police will host a Town Hall meeting this Thursday, October 27, 2016, at 7:00 PM at the Indian River High School Auditorium. This Town Hall meeting is being held to address Police-Community Relations in Sussex County. It is a joint venture between Law Enforcement, Legislators and the Indian River School District. A copy of their flyer is attached, which states the Town Hall is an opportunity for "an open, honest dialogue between Law Enforcement and our communities across Sussex County".**

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

**Robert Stuart, the County's Director of Paramedics, will join the panel of local elected officials, law enforcement officers and school officials for this very important discussion.**

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

**Mike Costello, Chief Constable, thanked the Council for the opportunity to serve as the Government Affairs Manager.**

**Anti-  
Dumping  
and  
Anti-  
Littering  
Task  
Force  
Report**

**Mike Costello, Chief Constable, updated the Council on the Anti-Dumping and Anti-Littering Task Force established by House Concurrent Resolution No. 40. Mr. Costello advised that the Task Force consists of eighteen members from local, state, private and non-profit organizations, including several legislators and he noted that he represented Sussex County on the Task Force. Mr. Costello reported that the Task Force was directed to quantify and define the residential and commercial aspects of illegal dumping issues, explore what actions are currently taking place within the State to address the issues, and identify and review anti-dumping and anti-littering strategies employed by other states. The Task Force filed a report that included the scope and nature of littering and dumping in Delaware, actionable recommendations for reducing littering and dumping in the State, a strategy for coordinating the efforts of state agencies to combat littering and illegal dumping, and identifying legislation and funding needed to implement these strategies.**

**Mr. Costello reported that the Task Force identified a multitude of approaches and he outlined the recommended strategies and tactics. He noted that each actionable item has been assigned to a task force member for preparation, evaluation, and implementation. Mr. Costello also reported that, on September 30th, the findings and actionable recommendations were forwarded to the General Assembly and to the Governor. It was recommended that the Task Force remain in place through the implementation period. Mr. Costello noted that the Task Force will expire with the 148th General Assembly on November 8, 2016. It has been recommended that a new Task Force be created by the 149th General Assembly so that there will be continuity throughout the implementation of the recommendations.**

**Service  
Reciprocity  
Agreement/  
Delmar  
Fire  
Department**

**Robert Stuart, Director of EMS; Robbie Murray, EMS Operations Manager; and Rob Thompson, President of the Delmar Fire Department, presented a Proposed Service Reciprocity Agreement between Sussex County EMS and the Delmar Fire Department. They explained that this agreement has been needed since 1978 when the law was enacted to put paramedic service in Delaware; at that time, Delmar was not included. Delmar Fire Department is the primary provider of pre-hospital advanced life support care and transportation to the Delmar, Maryland area; Sussex County EMS covers the 35 mile area with one paramedic unit. Mr. Stuart advised that the proposed agreement will allow for them to provide treatment to the people of**

**Agreement (continued)**      **Delmar. It was noted that Delmar is in a unique situation since they serve Maryland and Delaware and a lot of their paramedics obtain their license in Maryland.**

**M 647 16**      **A Motion was made Mr. Arlett, seconded by Mrs. Deaver, that the Sussex County Council approves the Service Reciprocity Agreement between Sussex County EMS and the Delmar Fire Department, as presented on October 25, 2016.**

**Approve Service Reciprocity Agreement**

**Motion Adopted:      5 Yeas.**

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

**CZ 1759/**      **Lawrence Lank, Director of Planning and Zoning, reported on Change of Zone No. 1759 filed on behalf of Osprey Point D, LLC, including the Planning Report on Receipt of Public Comments**      **and Zoning Commission's recommendation of approval and the receipt of information and public comments (including a letter from James A. Fuqua, Jr., Esquire, on behalf of Osprey Point D, LLC with attachments, and 38 letters/emails) prior to the closing of the record on August 22, 2016.**

**M 648 16**      **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to close the record on Change of Zone No. 1759 filed on behalf of Osprey Point D, LLC.**

**Close Record/  
CZ 1759**

**Motion Adopted:      5 Yeas.**

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

**Love Creek Woods/**      **Hans Medlarz, County Engineer, presented a proposed Sewer Participation Final Approval of Sewer Participation Agreement**      **Agreement between NSBM, LLC, Sussex County, and the Love Creek Woods Homeowners Association. Mr. Medlarz explained that the Love Creek Woods subdivision is located in the Angola North Expansion Area, the project where the County needed to obtain the last easement to get the certification for the right-of-way to proceed to bidding. Mr. Medlarz reported that the issues have been resolved; a signed easement document has been obtained; and the result is the proposed participation agreement being presented on this date. Mr. Medlarz explained that the County will make every attempt to keep the project under the \$180,000 contributed by the third party; however, the County assumes no liability above and beyond the \$180,000.**

**M 649 16**      **A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, based upon the Approve Sewer Participation Agreement**      **recommendation of the County Engineering Department, that the Sussex County Council approves the Sewer Participation Agreement between Sussex County and NSBM, LLC and the Love Creek Woods Homeowners Association.**

**M 649 16  
(continued)**

**Motion Adopted: 5 Yeas.**

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

**SCRWF  
Approve  
Contract  
Amendment  
for Con-  
ceptual  
Design  
Develop-  
ment**

**Hans Medlarz, County Engineer, discussed the South Coastal Regional Wastewater Facility (SCRWF) expansion. He reported that SCRWF is a 7 MGD facility and is currently operating under an Administratively Extended Permit and that the County would like to extend its permit to 10 MGD within the next permit cycle (5 years). Mr. Medlarz referenced Council's approval of the Engineer of Record; stated that Council reaffirmed that Engineer, which is GHD, Inc.; and stated that the Council authorized the negotiation of Amendment No. 11 (Base Contract preparation of Conceptual Design Development – 30% Design Stage).**

**M 650 16  
Approve  
Amendment  
to SCRWF  
Contract**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the County Engineering Department, that Amendment No. 11 to the South Coastal Regional Wastewater Facility Expansion No. 2, Contract with GHD, Inc., be approved in the amount not to exceed \$242,114.00.**

**Motion Adopted: 5 Yeas.**

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

**Road,  
Drainage,  
and Code  
Updates  
& Modifi-  
cations/  
Working  
Group  
Update**

**Hans Medlarz, County Engineer, and Vince Robertson, Assistant County Attorney, presented the Working Group's update regarding road, drainage and County Code updates/modifications. They explained that proposed changes have been developed to the Ordinance and chapters of the Code:**

- 1. Amend Chapters 90, 99 and Chapter 115 regarding Bulk Grading Plans, Detailed Grading Plans (by phase) and Individual Lot Grading Plans.**
- 2. Update street design requirements including road right of way drainage for subdivisions.**
- 3. Update bonding requirements for residential projects, including an unbonded provision where no properties are being transferred.**
- 4. Establish amenities as a separate phase with separate bonding.**
- 5. Clarify "Notice to Proceed" and Project Closeout requirements.**
- 6. Introduce expiration dates for construction plan approvals with regard to infrastructure and roads within subdivisions.**
- 7. Clarify that all fees required in Chapters 99, 110 and 115 are established as part of the annual Sussex County Budget.**
- 8. Establish a period of validity for Commercial Site Plans.**

**Working Group Update (continued)** **Mr. Medlarz referenced an extra item that was not added to the list relating to sidewalks.**  
**It was noted that the next step would be the drafting of an ordinance and the introduction of that ordinance.**

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

**M 651 16 Countywide Youth Grant** **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$2,000.00 from Countywide Youth Grants to Delaware Community Foundation for a Delaware Children in Nature Coalition event.**

**Motion Adopted: 4 Yeas, 1 Nay.**

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

**M 652 16 Councilmanic Grant** **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Cole's and Mrs. Deaver's Councilmanic Grant Accounts) to the Cape Henlopen High School for the Advancement Via Individual Determination (AVID) System for trip expenses.**

**MOTION DIED** **Questions were raised regarding the grant request.**

**No vote was taken and the Motion Died.**

**M 653 16 Defer Action on Grant Request** **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on the grant request submitted by the Cape Henlopen High School.**

**Motion Adopted: 5 Yeas.**

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

**No Action on Grant Request** **There was no action on the grant request from the Milton Police Department.**

**M 654 16 Councilmanic Grant** **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to grant \$500.00 from Mrs. Deaver's Councilmanic Grant Account to the Pinetown Civic Association for Community Center repairs.**

**Motion Adopted: 5 Yeas.**

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

**M 655 16  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to grant \$500.00 from Mr. Cole's Councilmanic Grant Account to First State Community Action Agency for a Long Neck Community Day event.**

**Motion Adopted: 5 Yeas.**

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

**M 656 16  
Council-  
manic  
Grant/  
MOTION  
DIED**

**A Motion was made by Mr. Wilson to give \$2,500.00 (\$500.00 from each Councilmanic Grant Account) to the Town of Georgetown for the Mayor's Return Day Celebration.**

**The Motion Died for the lack of a Second.**

**M 657 16  
Council-  
manic  
Grant/  
MOTION  
DIED**

**A Motion was made by Mr. Wilson to give \$2,000.00 (\$400.00 from each Councilmanic Grant Account) to the Town of Georgetown for the Mayor's Return Day Celebration.**

**The Motion Died for the lack of a Second.**

**Introduction  
of Proposed  
Ordinances**

**Mr. Arlett introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CRAFT DISTILLERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.22 ACRES, MORE OR LESS" (Conditional Use No. 2065) filed on behalf of Keith Properties, Inc. (Tax I.D. No. 533-19.00-753.00) (911 Address: 38016 Fenwick Shoals Blvd., Selbyville).**

**Mr. Vincent introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (THREE (3) UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.15 ACRES, MORE OR LESS" (Conditional Use No. 2066) filed on behalf of Albert J. Bierman (Tax I.D. No. 232-13.00-62.01) (911 Address: 13287 Shiloh Church Road, Laurel).**

**Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMERCIAL LANDSCAPING MATERIAL SALES AND STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.65 ACRES, MORE OR LESS" (Conditional Use No. 2067)**

**Introduction of Proposed Ordinances (continued)** filed on behalf of Stockley Materials, LLC. (Tax I.D. No. 334-5.00-192.00) (911 Address: 32402 Lewes Georgetown Highway, Lewes).  
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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.005 ACRES, MORE OR LESS” (Change of Zone No. 1814) filed on behalf of Stockley Tavern, LLC (Tax I.D. No. 133-6.00-41.00) (911 Address: 26072 DuPont Blvd., Georgetown).

The Proposed Ordinances will be advertised for Public Hearing.

**Council Members' Comments**

**Council Members' Comments**

Mr. Vincent recognized Mr. Arlett for his involvement with the Roxana Fire Department’s and Indian River School District’s pilot program (GEM program) to recruit and retain volunteers, starting with school children.

Mr. Vincent commented on the Sussex County Health Coalition and the importance of the Attack Addiction Program.

**M 658 16 Go Into Executive Session**

At 11:50 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to recess the Regular Session and to go into Executive Session.

**Motion Adopted: 5 Yeas.**

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

**Executive Session**

At 11:54 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to pending litigation, personnel, and land acquisition. The Executive Session concluded at 12:40 p.m.

**M 659 16 Reconvene Regular Session**

At 12:41 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.

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

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

**E/S Action**

There was no action on Executive Session matters.



**M 660 16**  
**Revert**  
**Back to**  
**Agenda**  
**Item**

**A Motion was made by Mr. Arlett, seconded by Mr. Cole, to revert back on the Agenda to Grant Requests.**

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

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

**M 661 16**  
**Council-**  
**manic**  
**Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$2,000.00 (\$400.00 from each Councilmanic Grant Account) to the Town of Georgetown for the Mayor's Return Day Celebration.**

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

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

**M 662 16**  
**Recess**

**At 12:44 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to recess until 1:30 p.m.**

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

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

**M 663 16**  
**Reconvene**

**At 1:30 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to reconvene.**

**Motion Adopted: 5 Yeas.**

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

**Rules of**  
**Procedure**

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

**Public**  
**Hearing/**  
**CU 2057**

**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 ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS" (Conditional Use No. 2057) filed on behalf of Delaware Electric Cooperative, Inc. (Tax I.D. No. 234-21.00-138.00 (Part of) (911 Address: None Available).**

**Public  
Hearing/  
CU 2057  
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on September 22, 2016 at which time the Commission recommended that the application be approved with conditions.

(See the minutes of the meeting dated September 22, 2016.)

Janelle Cornwell, Planning and Zoning Director Appointee, provided a summary of the Commission's Public Hearing and recommendation of approval.

The Council found that Terry Jaywork, Esquire, was present with Jack Jester, Professional Engineer with Delaware Electric Cooperative, Inc. They stated that the application is for a new substation on a site across Zoar Road (Route 48) from an existing substation; that the existing substation has reached its lifespan and needs to be updated in order to serve the expanding load growth and development in the greater Georgetown–Millsboro and beach areas; that after the new facility is built, the existing site will be retired; that the new site consists of 4 acres; that no materials or equipment will be stored on the site; that the proposed use will not generate additional traffic; and that personnel will visit the site approximately twice a month.

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

**M 664 16  
Adopt  
Ordinance  
No. 2471  
(CU 2057)**

A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, to Adopt Ordinance No. 2471 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS" (Conditional Use No. 2057) filed on behalf of Delaware Electric Cooperative, Inc., with the following conditions:

- A. The perimeter of the substation will be fenced.
- B. Two signs shall be permitted on the fencing around the property to identify the site and emergency contact information.
- C. Any security lighting shall be screened away from neighboring properties and County roads.
- D. Landscaping shall be provided to screen the facility from adjacent properties and roadways.
- E. The Final Site Plan shall be subject to the review and approval of the 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 2058**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (DUPLEX) DWELLING STRUCTURES (24 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9.33 ACRES, MORE OR LESS” (Conditional Use No. 2058) filed on behalf of Old Orchard Ventures, LLC, c/o Barry Baker (Tax I.D. No. 335-8.00-25.00) (911 Address: 16773 Old Orchard Road, Lewes).**

**The Planning and Zoning Commission held a Public Hearing on this application on September 22, 2016 at which time action was deferred. On October 13, 2016, the Commission recommended approval with conditions.**

**(See the minutes of the Planning and Zoning Commission dated September 22 and October 13, 2016.)**

**Janelle Cornwell, Planning and Zoning Director Appointee, provided a summary of the Commission’s Public Hearing and recommendation of approval.**

**The Council found that Mark Dunkle, Attorney, was present on behalf of the Applicant with Mike Riemann, Professional Engineer, and Jeff Bross, Professional Engineer. They stated that this application is the same as an application submitted in 2010 and approved by the Council; that the prior Conditional Use expired although the Change of Zone remains; that they are proposing to develop the site with 24 multi-family units; that the site is a Certified Brownfield site; that most of the Brownfield site has been cleaned up; that groundwater monitoring has been done and there will be additional monitoring; that monitoring wells exist and are monitored by DNREC; that the brownfield designation will be part of a disclosure to future buyers; that rigorous environmental investigation has taken place; that the site will have public water and central sewer; and that a playground area is proposed at the front of the site.**

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

**M 665 16  
Adopt  
Ordinance  
No. 2472/  
CU 2058**

**A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to Adopt Ordinance No. 2472 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (DUPLEX) DWELLING STRUCTURES (24 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9.33 ACRES, MORE OR LESS” (Conditional Use No. 2058) filed on behalf of Old Orchard Ventures, LLC, c/o Barry Baker, with the following conditions:**

- A. There shall be no more than 24 residential dwelling units.**

**M 665 16  
Adopt  
Ordinance  
No. 2472/  
CU 2058  
(continued)**

- B. The removal, disposal and monitoring of waste from the project site shall be in compliance with all DNREC requirements.**
- C. The applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, and other common areas.**
- D. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.**
- E. The project shall be served by central sewer by the City of Lewes and/or Sussex County. Sewer service shall be available at the site prior to the issuance of the first residential building permit.**
- F. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- G. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these features.**
- H. The interior street design shall be in accordance with or exceed Sussex County street design requirements. Sidewalks shall be installed along at least one side of all streets.**
- I. There shall be a vegetated buffer along the entire perimeter of the site pursuant to Sections 115-21 8E and 99-4 of the Sussex County Code. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design for the site, including the buffer areas.**
- J. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday.**
- K. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Departments.**
- L. The applicant shall cooperate with the local school district's transportation manager to establish a school bus stop area. The bus stop area shall be shown on the Final Site Plan.**
- M. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- N. The Final Site Plan shall depict an easement for access to the property at the rear of the site.**
- O. All Site Plans and condominium documents shall contain a notice that the site is a Brownfield Site. The Final Site Plan shall identify the methods of monitoring the site before, during and after cleanup.**
- P. The Final Site Plan and condominium documents shall contain a notice similar to the agricultural use protection notice that the site is in the vicinity of a concrete plant, and the dust, noise, traffic, etc. associated with that plant.**
- Q. No Certificate of Occupancy shall be issued for any dwelling unit within the project until a Certificate of Completion of Remedy or**

**M 665 16  
Adopt  
Ordinance  
No. 2472/  
CU 2058  
(continued)**

similar certification is issued by DNREC confirming that all Brownfield remediation on the entire site has been completed to the agency's satisfaction. This requirement shall be included as a Note on the Final Site Plan for the development.

**R. The Final Site Plan for the development shall be subject to approval of the Planning and Zoning Commission.**

**Motion Adopted: 5 Years.**

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

**Public  
Hearing/  
CU 2059**

**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 BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 24,205 SQUARE FEET, MORE OR LESS" (Conditional Use No. 2059) filed on behalf of Julie Norwood (Tax I.D. No. 334-12.00-25.00) (911 Address: None Available).**

**The Planning and Zoning Commission held a Public Hearing on this application on September 22, 2016 at which time action was deferred. On October 13, 2016, the Commission deferred action again.**

**(See the minutes of the Planning and Zoning Commission dated September 22 and October 13, 2016.)**

**Janelle Cornwell, Planning and Zoning Director Appointee, provided a summary of the Commission's Public Hearing.**

**The Council found that Pete Norwood was in attendance on behalf of the application. He stated that their application is for a salon that will start with only two employees and may grow to four employees; that the cleaning business will continue on the property; that he has requested a site plan to be done; that the Sussex Conservation District has provided an exempt letter which he has presented to the Planning and Zoning Department; and that he understands he still has to obtain approvals from DelDOT and the State Fire Marshall.**

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

**M 666 16  
Defer  
Action/  
CU 2059**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 24,205**

**M 666 16**      **SQUARE FEET, MORE OR LESS” (Conditional Use No. 2059) filed on**  
**(continued)**      **behalf of Julie Norwood.**

**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 1809**

**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 LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.24 ACRES, MORE OR LESS” (Change of Zone No. 1809) filed on behalf of MOCA Properties, LLC / Solid Image (Tax Map I.D. No. 532-6.00-87.02) (911 Address: 11244 Whitesville Road, Laurel).**

**The Planning and Zoning Commission held a Public Hearing on this application on September 22, 2016 at which time the Commission recommended that the application be approved.**

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

**Janelle Cornwell, Planning and Zoning Director Appointee, provided a summary of the Commission’s Public Hearing and recommendation of approval.**

**The Council found that Blake Carey, Attorney, was present with Warren Reid of MOCA Properties, LLC and Solid Image. They stated that, currently, the retail store for Solid Image is located on the westerly side of Sussex Highway which creates a logistical problem for the business since the counter top displays are kept at a different site (the site of this application); that with the expansion of his business, the Applicant wishes to move the retail sales to the same location as the displays; that no changes are proposed with respect to the buildings located on the property; that the interiors of the buildings will be improved; that there will be no adverse impact on neighboring properties; that other businesses and commercial uses are located in the area; and that there is a proposed entrance/ingress from DuPont Highway and an ingress/egress off of Whitesville Road.**

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

**M 667 16**  
**Adopt**  
**Ordinance**  
**No. 2473**

**A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, to Adopt Ordinance No. 2473 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1**

**M 667 16**            **COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL**  
**Adopt**            **OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX**  
**Ordinance**       **COUNTY, CONTAINING 6.24 ACRES, MORE OR LESS” (Change of Zone**  
**No. 2473/**       **No. 1809) was filed on behalf of MOCA Properties, LLC / Solid Image.**  
**CZ 1809**  
**(continued)**      **Motion Adopted:       5 Yeas.**

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

**M 668 16**            **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at**  
**Adjourn**           **2:25 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.}*