

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 29, 2019**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 29, 2019, 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>Irwin G. Burton III</b>	<b>Vice President</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>John L. Rieley</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>

<b>Call to Order</b>	<b>The Invocation and Pledge of Allegiance were led by Mr. Vincent.</b> <b>Mr. Vincent called the meeting to order.</b>
<b>M 532 19 Approve Agenda</b>	<b>A Motion was made by Mr. Wilson, seconded by Mr. Burton, to approve the Agenda, as posted.</b> <b>Motion Adopted: 5 Yeas.</b> <b>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea</b>
<b>Minutes</b>	<b>The minutes of October 22, 2019 were approved by consent.</b>
<b>Correspondence</b>	<b>Mr. Moore read correspondence received from Make A Wish and Rehoboth Beach Little League.</b>
<b>Public Comments</b>	<b>A public comment period was held and the following spoke: Paul Reiger and Dan Kramer.</b>
<b>DTCC/ Delaware 4-H Association</b>	<b>A presentation was given by students of Delaware Technical &amp; Community College who are members of the Delaware 4-H Association. The students thanked the Council for its donation that assisted in funding their Exchange Trip to Stillwater County, Montana. Their presentation was on the activities they participated in on their trip.</b>
<b>CIB/The State of Your Creek</b>	<b>A presentation was given by Chris Bason, Executive Director of the Center for the Inland Bays and Dr. Marianne Walch, Science &amp; Restoration Coordinator for the Center for the Inland Bays. The presentation was on The State of Your Creek – Herring and Guinea Creeks on Rehoboth Bay,</b>

(continued) which assesses the health of the creeks, and highlights the values of the creeks and the threats to those values.

**Never Let Them Go Campaign Support** Mr. Burton referenced the presentation given by members of the Beacon Middle School's Odyssey of the Mind Team on their "Never Let Them Go" Campaign, which was presented to Council at the October 22nd meeting. At that meeting, the group asked for the Council's support of its initiative to raise awareness about the harm balloon litter causes.

Mr. Lawson read a Proposed Resolution for Council's consideration.

**M 533 19 Adopt R 020 19** A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Resolution No. R 020 19 entitled "A RESOLUTION PLEDGING SUSSEX COUNTY COUNCIL'S SUPPORT FOR THE BEACON MIDDLE SCHOOL *NEVER LET THEM GO* CAMPAIGN".

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea

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

1. Wetlands and Buffer Working Group Meeting

The Wetlands and Buffer Working Group will hold its next meeting on Monday, November 4, 2019, at 2:00 p.m. at the Sussex County West Complex located at 22215 North DuPont Boulevard in Georgetown, Delaware. More information can be found at [www.sussexcountvde.gov/planning-zoning](http://www.sussexcountvde.gov/planning-zoning). A copy of the agenda is attached.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Belle Terre – Pump Station and Fox Haven II – Phase 1 received Substantial Completion effective October 14<sup>th</sup> and October 21<sup>st</sup>, respectively.

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

**LSA Planning Presentation /HOME Report & Recommendation** Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer, introduced Lisa Sturtevant and Jennifer Skow of LSA who presented the Housing Opportunities and Market Evaluation (HOME) Report which presents strategies designed to promote housing choice and economic vitality for Sussex County's residents and workforce. These strategies are a culmination of an eight-month initiative, supported by a housing needs assessment and economic feasibility study, to develop

**LSA  
Planning  
Presentation  
(continued)**

**foundational recommendations for creating and improving access to affordable housing opportunities in Sussex County. The recommendations benefitted from input from residents, homebuilders and developers, advocates, County staff, County Council, and Planning Commissioners. Ms. Sturtevant noted however, that the strategies and actions presented in the report represents the views of LSA, the consultant team hired by the County to undertake the study and prepare the report.**

**The goal of the Sussex County HOME Study is to formally evaluate housing needs and potential housing strategies in Sussex County after affordable housing was identified as a critical issue during the comprehensive planning process. The project process was explained, a market analysis/needs assessment and an economic feasibility analysis were presented. Also presented were strategies and an implementation framework. The three strategies presented are as follows: modify the Zoning Code to promote housing affordability in growth areas identified in the Comprehensive Plan, establish a local housing trust fund, and preserve the existing supply of affordable housing. It was noted that the report includes a detailed framework for implementing the recommended housing strategies, including the public, private, and nonprofit partners that will need to be involved in implementation, as well as cost implications of recommended actions.**

**Delaware  
Coastal  
Airport &  
Business  
Park/  
Chesapeake  
Utilities  
Corporation  
/Advance  
Agreement  
Addendum**

**Hans Medlarz, County Engineer, reported that, in order to provide all utilities desired by businesses in the Coastal Business Park, on December 18, 2018, Council approved a natural gas Customer Advance Agreement with Chesapeake Utilities Corporation. It provided for an equal capital cost share between the parties in the originally estimated amount of \$264,224.00 each. In addition, it included a 5-year reimbursement opportunity for the County based on actual customer gas consumption. In the course of construction document review, the Engineering Department requested an increased length and depth for all the gas main crossings under storm drainage pipes, increasing the estimated cost by \$20,195.00. Rather than deducting 100% of the cost increase from future reimbursements as per the approved Agreement, Chesapeake Utilities Corporation offered an addendum, equally sharing the increase. The Engineering Department recommends approval of the addendum.**

**M 534 19  
Approve  
Customer  
Advance  
Agreement  
Addendum/  
Chesapeake  
Utilities  
Corporation**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Council approves the Addendum to the Customer Advance Agreement with Chesapeake Utilities Corporation to furnish gas services to the Delaware Coastal Business Park and Airport, as presented.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**IBRWF/  
Regional  
Biosolids  
and  
Septage  
Facilities/  
Chesapeake  
Utilities  
Corporation  
/Gas  
Service  
Agreement**

**Hans Medlarz, County Engineer, reported on the regional bio-solids upgrades and gas service to the Inland Bays Regional Wastewater Facility (contract for evaluation of Class A sludge drying options). In a cooperative engineering effort, the County's biosolids drying unit design has anticipated transfer of Class B biosolids to IBRWF for final treatment. The annual natural gas usage for the unit is estimated at 31,635 Mcf. This number is reflected in the agreement as the Minimum Annual Delivery (MAD). The Tariff requires the County to pay Chesapeake Utilities each month in accordance with the pricing provisions of said Tariff, regardless of actual usage. The utility "balances" the gas as part of the Tariff but the County must procure the gas at the NYMEX. The drying unit's (a natural gas unit) full production start is scheduled on or before May 1, 2020. The closest point of service is at the Long Neck / Route 5 intersection, so they will have to bring that line to the facility. The natural gas supply has to be available at IBRWF a few weeks prior for testing and start-up. The County has explored several supply options and determined that the interruptible transportation service approach is the most cost effective. The main component of the tariff is the delivery service rate for the MAD, currently \$3.25 per Mcf, which allows the utility to recover the capital expense of extending the service to IBRWF without a capital contribution by the County. After the conclusion of the 5-year term of the agreement, the County can either switch to a different tariff model or renegotiate the delivery service rate at a much lower cost. Mr. Medlarz reported that the Finance and Engineering Departments recommend approval of the Gas Service Agreement with Chesapeake Utilities Corporation under the Interruptible Transportation Service tariff. In addition, the Finance and Engineering Departments request authorization for the Finance Director and the County Engineer to purchase natural gas in the NYMEX through an energy resource company.**

**M 535 19  
Approve  
Gas  
Service  
Agreement/  
Chesapeake  
Utilities  
Corporation  
/IBRWF**

**A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Finance and Engineering Departments, that Council approves the Gas Service Agreement with Chesapeake Utilities Corporation, to furnish natural gas services to the Inland Bays Regional Wastewater Facility, and further approves the Finance Director and County Engineer to purchase natural gas through an Energy Resource Company.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Use of  
Existing  
Infra-  
structure  
Agreement/**

**John Ashman, Director of Utility Planning, presented a Use of Existing Infrastructure Agreement with Dukes Lane, LLC for the Parkside project in the Millville Area. The agreement does not modify the underlying land use decision in any form. However, it allows the wastewater originating from the approved project to be conveyed through the existing transmission**

**Parkside/  
Dukes  
Lane, LLC  
(continued)** system previously constructed by the County. Under the proposed arrangement, the Parkside project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure, Dukes Lane, LLC will contribute \$62,204.00 for the financial catch-up contribution of the existing infrastructure to serve 95.00 additional Equivalent Dwelling Units.

**M 536 19  
Approve  
Use of  
Existing  
Infra-  
structure** A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Dukes Lane, LLC for capacity allocation in the regional transmission system, as presented.

**Agreement/  
Dukes** Motion Adopted: 5 Yeas.

**Lane, LLC** Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea

**Grant  
Request** Mrs. Jennings presented a grant request for the council's consideration.

**M 537 19  
Countywide  
Youth  
Grant** A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$1,000 from Countywide Youth Grants to the Del-Mar-Va Council, Boy Scouts of America, for the Sussex Distinguished Citizen Award Event Fundraiser.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, 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 C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 17.25 ACRES, MORE OR LESS" (Change of Zone No. 1903) filed on behalf of W. Wayne Baker (Tax I.D. No. 133-6.00-43.00) (911 Address: Not Available).

Mr. Hudson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (224 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.793 ACRES, MORE OR LESS" (Conditional Use No. 2199) filed on behalf of OA-Rehoboth, LLC (Tax I.D. No. 334-12.00-127.01 and 127.10) (911 Address: Not Available).

**Introduction  
of Proposed  
Ordinances  
(continued)**

**Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO ALLOW FOR AN EXPANSION OF AND AMEND CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1724 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 127.37 ACRES, MORE OR LESS” (Conditional Use No. 2208) filed on behalf of Artesian Wastewater Management, Inc. (Tax I.D. No. 235-6.00-28.00 & 28.09) (911 Address: None Available).**

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

**M 538 19  
Go Into  
Executive  
Session**

**At 12:28 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, to recess the Regular Session and go into Executive Session to discuss matters relating to collective bargaining and land acquisition.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Executive  
Session**

**At 12:35 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to collective bargaining and land acquisition. The Executive Session concluded at 1:25 p.m.**

**M 539 19  
Reconvene  
Regular  
Session**

**At 1:30 p.m., a Motion was made by Mr. Burton, seconded by Mr. Hudson, to come out of Executive Session and to reconvene the Regular Session.**

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

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Absent; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 540 19  
Authorize  
Land  
Acquisition**

**A Motion was made by Mr. Burton, seconded by Mr. Rieley, that the County Administrator be authorized to negotiate, offer, and enter into a contract and proceed to closing on property identified as Land 2019-Q.**

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

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Absent; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Mr. Wilson joined the meeting.**

**Public  
Hearing  
CU 2188**

**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 CONTRACTOR’S OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.69 ACRE, MORE OR LESS” (Conditional Use No. 2188) filed on behalf of Donovan’s Painting and Drywall, LLC, c/o Jose Sandoval (Tax I.D. No. 334-5.00-205.01 and 208.00) (911 Address: 32454 Lewes Georgetown Highway, Lewes).**

**The Planning and Zoning Commission held a Public Hearing on this application on September 26, 2019 at which time action was deferred. On October 10, 2019, the Commission recommended approval with conditions.**

**(See the minutes of the Planning Zoning Commission dated September 26 and October 10, 2019.)**

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

**The Council found that Shannon Carmean Burton, Attorney, was present with Ken Christenbury of Axiom Engineering, and Jose Sandoval, Applicant and owner of the property. The Council found that Ms. Burton, Mr. Christenbury, and Mr. Sandoval stated that the property was purchased in 2018; that the Applicant wishes to relocate his business to this property for the purpose of expansion; that two buildings are proposed to be constructed – an office building (stick built) and a storage building (pole barn); that 14 parking places will be provided, which includes one handicapped space; that there is no central water available so there will be a private well; that the well will be located at the front of the property and stormwater will be located at the back of the property; that employees arrive at the site in the morning, leave the site and then return in the evening to pick up their vehicles; that the hours of operation would be 7:00 a.m. to 7:00 p.m. Monday through Friday, 7:00 a.m. to 1:00 p.m. on Saturdays, with no Sunday hours; that most of the work is offsite, so there would not be a lot of activity occurring on the site during the day; that no Traffic Impact Study was required; that the property is located in the Coastal Area according to the 2019 Comprehensive Plan; that the Coastal Area is a growth area; that the site is located in an Investment Level 1 Area according to the Strategies for State Policies and Spending; that no retail sales is proposed at the site; and that there will be no impact on neighboring properties. Ms. Burton presented an overview of uses and zonings in the area, noting that the area is trending commercial. Mr. Christenbury presented an overview of the site plan and discussed the application’s compliance with the Comprehensive Plan.**

**There were no public comments.**

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

**M 541 19  
Adopt\  
Ordinance  
No. 2686/  
CU 2188**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2686 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR’S OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.69 ACRE, MORE OR LESS” (Conditional Use No. 2188) filed on behalf of Donovan’s Painting and Drywall, LLC, c/o Jose Sandoval, with the following conditions:**

- A. The use shall be limited to a contracting office with storage.**
- B. There shall not be any outside storage of paint or other materials associated with the use.**
- C. All lighting on the site shall be shielded and downward screened so that it does not shine on neighboring properties or roadways.**
- D. Any dumpsters on the site shall be screened from the view of neighboring properties and roadways.**
- E. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- F. The hours of operation shall be Monday through Friday from 7:00 a.m. until 7:00 p.m. and from 7:00 a.m. through 1:00 p.m. on Saturdays. There shall not be any Sunday hours.**
- G. One lighted sign shall be permitted on the site. It shall not exceed 32 square feet per side.**
- H. The parking shall comply with the County parking requirements. All vehicle parking and large equipment storage areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself. All vehicles must only be parked within the designated areas.**
- I. The existing vegetation on the sides and rear of the site shall remain in place to act as a screen from neighboring properties. The Final Site Plan shall confirm the existence and location of this vegetation.**
- J. The Applicant shall comply with all requirements of the Sussex Conservation District regarding stormwater management on the site.**
- K. Failure to comply with any of these conditions shall be grounds for the termination of the Conditional Use approval.**
- L. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU 2190**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY,**



**Public  
Hearing/  
CU 2190  
(continued)**

**CONTAINING 0.26 ACRE, MORE OR LESS” (Conditional Use No. 2190) filed on behalf of Steven and Helene Falcone (Tax I.D. No. 334-5.00-212.00 and 213.00) (911 Address: 17662 Beaver Dam Road, Lewes).**

**The Planning and Zoning Commission held a Public Hearing on this application on September 26, 2019 at which time action was deferred. On October 10, 2019, the Commission recommended denial since the record does not indicate that the use will fit on this small parcel of land; since the survey that was submitted shows a building that will not fit within the proposed setbacks without at least 3 separate variances; since the survey that was submitted also indicates that there is a significant boundary line discrepancy of 14 feet along the northwest boundary of the site which further impacts the setback encroachments of the proposed building and parking; and since there are just too many unanswered questions.**

**(See the minutes of the Planning and Zoning Commission dated September 26 and October 10, 2019.)**

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

**The Council found that Jon Bulkeley, Attorney, was present with the Applicants, Steven and Helene Falcone. Mr. Bulkeley and Mr. Falcone stated that the application is for an office for an accounting firm; that there is an existing 525 square foot dwelling on the property; that they propose to add on to the existing building; that County sewer and public water are available; that the Applicant’s accounting firm has four employees; that the conceptual site plan presented to the Planning and Zoning Commission did not meet the Zoning Code; that since the Public Hearing before the Planning and Zoning Commission, they have engaged an engineering firm to revise the plan; that the expansion would be constructed and the necessary changes made to meet setbacks, etc.; and that regarding the boundary line discrepancy, it did not show up in the title search when they purchased the property in December.**

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

**M 542 19  
Leave  
Record  
Open/  
CU 2190**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to leave the record open for 90 days on Conditional Use No. 2190 for the purpose of the Applicant submitting a conceptual site plan.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 543 19  
Defer  
Action/  
CU 2190**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to defer action on Conditional Use No. 2190 filed on behalf of Steven and Helene Falcone, with the record being left open for the Applicant to provide a**

**M 543 19  
(continued)**

**conceptual site plan within 90 days.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU 2192**

**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 TO AMEND CONDITIONAL USE NO. 1979 TO ALLOW FOR NIGHTCLUB TYPE ACTIVITIES AND AN ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.033 ACRES, MORE OR LESS” (Conditional Use No. 2192) filed on behalf of Thomas and Judy Munce (Napoleon Hernandez) (Tax I.D. No. 230-26.00-35.01) (911 Address: 12327 DuPont Boulevard (Route 113), Ellendale).**

**The Planning and Zoning Commission held a Public Hearing on this application on September 26, 2019 at which time the Applicant was not present. Due to the lack of representation, and therefore, the lack of a record at the Public Hearing, the Planning and Zoning Commission recommended denial.**

**(See the minutes of the Planning and Zoning Commission dated September 26, 2019.)**

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

**Mr. Moore advised Council of Section 115-216D of the Sussex County Code regarding reconsiderations and the one year limitation for refileing an application. This section of the Code states that “...provided, however, that the County Council shall not act upon any matter in which the applicant failed to appear before the Planning and Zoning Commission.” Mr. Moore noted that the Public Hearing can be held on this date; however, the County Council cannot act on the application since the Planning and Zoning Commission did not have a public hearing. Further, if the Planning and Zoning Commission does not act to allow the Applicant, for good reason, to have a public hearing, then the application will not be acted upon.**

**The Council found that Napoleon Hernandez was present on behalf of the application. He stated that a Conditional Use already exists for the property permitting a tavern/package store; that he wants to continue operating as a tavern and to add more entertainment options / nightclub type activities, i.e. pool tables, karaoke, go-go dancing, paint nights, etc.; that they want to have an electronic message center sign; and that they have unplugged and moved their lighted sign since they do not have approval for**

**Public  
Hearing/  
CU 2192  
(continued)**

**it at this time.**

**Public comments were heard.**

**Adaria Bracy, an employee of the tavern, spoke in support of the application.**

**Theodore Walius, an adjacent property owner, spoke in opposition to the application. He stated that since the new owners have changed the type of business, problems have occurred and it is not neighborhood friendly; that there are many safety concerns: there has been a shooting as well as stabbings, and the tavern has been burglarized several times; and that the tavern has a security person that carries a rifle and a pistol.**

**There were no additional public comments.**

**The Public Hearing was closed.**

**The public record was closed with the exception of receiving the record and recommendation of the Planning and Zoning Commission. (This information will be received if the Applicant is able to reschedule the Planning and Zoning Commission public hearing).**

**M 544 19  
Defer  
Action/  
CU 2192**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to defer action on Conditional Use No. 2192 filed on behalf of Thomas and Judy Munce (Napoleon Hernandez) for the recommendation of the Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, Yea;  
Mr. Vincent, Yea**

**M 545 19  
Adjourn**

**At 2:36 p.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson, to adjourn.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Wilson, Yea; Mr. Burton, 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.}*