

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 31, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 31, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 542 17
Approve
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve the agenda, as posted.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of October 24, 2017 were approved by consent.

Mr. Cole joined the meeting.

**Public
Comments**

Public Comments

The following people spoke regarding right-to-work legislation: Robert Lawless, David Stevenson, Cathy Watts, Bryant Richardson, Phoebe Cottingham, Vincent Ascione, James Maravelias, John Rodriquez, Eric Masten.

Stephanie Parker spoke in support of the proposed Sussex Sports Complex.

Mr. Vincent paused the Public Comments portion of the meeting so that Council could hold the scheduled 10:30 a.m. Public Hearing.

**Public
Hearing/
Proposed
Firearms
Ordinance**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO ADOPT CHAPTER 63, SECTION 63-1 OF THE CODE OF SUSSEX COUNTY WHICH SHALL PROHIBIT POSSESSION OF FIREARMS, AMMUNITION, COMPONENTS OF FIREARMS, OR EXPLOSIVES IN ALL COUNTY BUILDINGS, SUBJECT TO CERTAIN EXCEPTIONS, IN ACCORDANCE WITH TITLE 9, SECTION 330 OF THE DELAWARE CODE”.

This Ordinance amends the Sussex County Code by adopting Chapter 63, § 63-1 which prohibits the possession of firearms, ammunition, components of firearms, or explosives in all County buildings, subject to certain exceptions stated herein, in accordance with Title 9, Section 330 of the Delaware Code.

Mr. Lawson reported that the County asked the Delaware Capitol Police to perform a physical assessment on County facilities in Georgetown. The Capitol Police provided several recommendations, with an emphasis on improving the access and security of County buildings. Specifically, their highest recommendation was the installation of mechanized security screening through magnetometers.

Mr. Lawson also reported that the Ordinance for consideration will allow the County to screen for and prohibit firearms specifically, unless an individual is qualified by the State to carry a firearm under Delaware Code, Title 9 § 330.

It was noted that, prior to 2015, local towns and county governments were prohibited from enacting any law that restricted firearms. In 2015, the State legislature passed House Bill 201, which gave local governments the ability to enact ordinances to restrict the possession of firearms in public buildings, subject to specific requirements. Sussex County supported and actively worked to see it passed into law. It was further noted that the County does not have to enact an ordinance to forbid any other weapon other than a firearm; all other weapons such as knives, can be prohibited through policy and procedure.

Public comments were heard.

Dan Kramer spoke in opposition to the Proposed Ordinance and commented that the State of Delaware is an open carry state; that a metal detector will not prevent something bad from happening; that removing guns will make it more dangerous; and that any danger will come from inside the County.

Jeff Hague was present representing the Delaware State Sportsmen’s Association and the National Rifle Association (NRA). He stated that these organizations do not oppose the Proposed Ordinance.

Public Hearing/ Proposed Firearms Ordinance (continued)

Paul Reiger commented that the Proposed Ordinance does not conflict with State Law and that it is worthwhile “doing it this way”.

Cheryl Ann Torner commented on the need for an element of security in government offices. She stated that she is opposed and in support of the Proposed Ordinance.

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

M 543 17 Adopt Ordinance No. 2529/ Firearms Ordinance

A Motion was made by Mr. Cole, seconded by Mr. Burton, to Adopt Ordinance No. 2529 entitled “AN ORDINANCE TO ADOPT CHAPTER 63, SECTION 63-1 OF THE CODE OF SUSSEX COUNTY WHICH SHALL PROHIBIT POSSESSION OF FIREARMS, AMMUNITION, COMPONENTS OF FIREARMS, OR EXPLOSIVES IN ALL COUNTY BUILDINGS, SUBJECT TO CERTAIN EXCEPTIONS, IN ACCORDANCE WITH TITLE 9, SECTION 330 OF THE DELAWARE CODE”.

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)

The following people spoke regarding right-to-work legislation: Michelle Eubank, Rick Fridell, Bette McGrath, Jim Viscount, Maurice McGrath, Richard King, George Ball, and Ken Cicerale.

Wastewater Agreement

Mr. Lawson presented a Wastewater Agreement for the Council’s consideration.

M 544 17 Execute Wastewater Agreement

A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, for Sussex County Project No. 81-04, for Wastewater Agreement 984-8, that Sussex County Council execute a Construction Administration and Construction Inspection Agreement between the Sussex County Council and Coastal Club, LLC for wastewater facilities to be constructed in Coastal Club - Jimtown Road Regional Pump Station, located in the Goslee Creek Planning Area.

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. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Batson Creek Estates – Phase 4 and The Vineyards at Nassau Valley – Phase 2 (Plan Review) received Substantial Completion effective October 21, 2017.

Also, per the attached Engineering Department memo, Contract No. 14-17, Inland Bays Regional Wastewater Facility Switchgear Replacement, achieved Substantial Completion effective June 30, 2017.

2. Planning and Zoning Commission Public Hearing

The Sussex County Planning and Zoning Commission is scheduled to host a Public Hearing on Thursday, November 2, 2017, at 6:00 p.m. to consider the 2018 Comprehensive Land Use Plan. The hearing is to consider the recommendation of adoption of the new Comprehensive Land Use Plan and to forward the recommendation to the County Council. The hearing will take place in the Council Chambers located in the County Administrative Offices building at 2 The Circle in Georgetown.

3. Elizabeth "Betty" Mears

It is with sadness that we note the passing of Elizabeth "Betty" Mears on Thursday, October 19th. Ms. Mears began her career with Sussex County in May 1977 and retired from the Emergency Operations Center as an Emergency Communications Specialist I in May 1995 with 18 years of service. We would like to express our condolences to the Mears family.

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

**Old
Business/
CU 2075**

Under Old Business, Janelle Cornwell, Planning and Zoning Director, presented for Council's consideration Conditional Use No. 2075 filed on behalf of Burton's Pond LLC (Burton's Pond Section II).

Sussex County Council held a Public Hearing on this application on June 13, 2017 at which time action was deferred for additional information; that information was provided to the Council on September 16, 2017.

The Planning and Zoning Commission held a Public Hearing on this application on April 6, 2017 at which time the Commission deferred action. On May 11, 2017, the Commission recommended approval with conditions.

- Old Business/
CU 2075
(continued)** Council discussed the site plan and proposed relocation of buildings.

Mr. Cole referenced the traffic signalization of the Sloan Road intersection and suggested a condition of approval that a traffic signal is required once 75 units have been constructed. Mr. Moore stated that this is under DelDOT's jurisdiction and that he would like to research this matter prior to Council adding it as a condition of approval.
- M 545 17
Defer
Action on
CU 2075** A Motion was made by Mr. Cole, seconded by Mr. Burton, to defer action on Conditional Use No. 2075 filed on behalf of Burton's Pond LLC (Burton's Pond Section II) to allow time for the County Attorney to research whether the Council can or cannot impose a condition requiring signalization.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea
- Proposed
Sale of
County
Owned
Property
located in
The Salt
Pond** Hans Medlarz, County Engineer, discussed property (7,700 square feet) owned by Sussex County located within "The Salt Pond" community. One of the parcels is encumbered by a Town of Bethany Beach easement. Mr. Medlarz reported that both the Town of Bethany Beach and Salt Pond Associates have expressed interest in purchasing the property. He noted that an appraisal has been obtained at no expense to the County. It was noted that the County Administrator and the County Engineer recommend selling this property to the Town of Bethany Beach in the amount of \$20,000. Mr. Medlarz presented reasons for this recommendation.
- M 546 17
Approve
Sale of
Property
to Town
of Bethany
Beach** A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the sale of Parcel Nos. 134-13.00-1841 and 1842 for \$20,000.00 to the Town of Bethany Beach.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea
- Pump
Station 210
Forcemain/
IBRWF/** Hans Medlarz, County Engineer, presented the Balancing Change Order and request to grant Substantial Completion for Pump Station 210 Forcemain to Inland Bays Regional Wastewater Facility, Project No. 15-08A. The Balancing Change Order incorporates the previous claim settlement with Allan Myers approved by Council on May 16, 2017, reduces the contract amount by an additional \$42,625.13, allows for a 95-day contract time extension and adjusts all quantities to their final amounts;

(continued) **thereby lowering the final contract amount to \$4,155,151.87. Construction began on March 14, 2016 and was considered Substantially Complete on June 16, 2017.**

M 547 17
Approve
Change
Order and
Grant
Substantial
Completion/
Pump
Station 210
and Force-
main

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Change Order No. 2 for Contract No. 15-08A, Pump Station 210 Forcemain into Inland Bays Regional Wastewater Facility, Indian Mission and Beaver Dam Roads, be approved decreasing the contract amount by \$42,625.13 for a new total of \$4,155,151.87 and that Substantial Completion be granted effective June 16, 2017 and any held retainage be released in accordance with the documents.

Motion Adopted: 5 Yeas.

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

Request to
Post
Notices/
Carillon
Woods
Expansion

John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Carillon Woods Expansion of the Sussex County Unified Sanitary Sewer District (Long Neck Area). Mr. Ashman reported that the expansion was requested by Davis Bowen & Friedel for their client, Carillon Woods, LLC. The approximate 26 acre site, located on Indian Mission Road, is to be used for the construction of 204 apartment units and a clubhouse. The project will be responsible for System Connection Charges in place at the time of connection and a Use of Existing Infrastructure Agreement will be required.

M 548 17
Authorize
Posting
Notices for
Carillon
Woods
Expansion

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the Engineering Department is authorized to prepare and post notices for the Carillon Woods Expansion of the Sussex County Unified Sanitary Sewer District (Long Neck Area) to include Parcel 234-23.00-260.00 and a portion of Parcel 234-23.00-269.18, 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**

Introduction
of Proposed
Ordinance
(Labor
Unions)

Mr. Arlett introduced the Proposed Ordinance entitled "AN ORDINANCE TO ADD A NEW CHAPTER 117 TO SUSSEX COUNTY CODE ENTITLED "LABOR UNIONS" TO PROHIBIT CERTAIN UNION MATTERS IN PRIVATE SECTOR EMPLOYMENT, INCLUDING PROHIBITION OF MANDATORY UNION MEMBERSHIP AND PAYMENT OF UNION DUES OR FEES AS CONDITION OF EMPLOYMENT; INVOLUNTARY UNION PAY DEDUCTIONS; AND ACTS OF COERCION RELATED TO UNION SUPPORT OR

(continued) **MEMBERSHIP”.**

The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Zoning Ordinances Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTOMOTIVE SALES WITH MINOR REPAIRS AND CONTRACTOR OFFICE WITH STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 0.909 ACRES, MORE OR LESS” (Conditional Use No. 2119) filed on behalf of Chad Hayes (Tax I.D. No. 135-15.00-40.00) (911 Address: 22091 Lewes-Georgetown Highway, Georgetown).

Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR CONDITIONAL USE NO. 1106 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.706 ACRES, MORE OR LESS” (Conditional Use No. 2120) filed on behalf of PJM Properties, LLC (Tax I.D. No. 533-19.00-287.02) (911 Address: Not Available).

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 GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 22.53 ACRES, MORE OR LESS” (Change of Zone No. 1848) filed on behalf of R. Keller and Joann Hopkins (Tax I.D. No. 135-6.00-10.00) (911 Address: 18864 Redden Road, Georgetown).

The Proposed Ordinances will be advertised for Public Hearing.

M 549 17 At 11:44 a.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to
Go Into recess the Regular Session and go into Executive Session.
Executive
Session

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 11:46 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to pending litigation and land acquisition. The Executive Session concluded at 12:16 p.m.**

M 550 17 Reconvene Regular Session **At 12:18 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to come out of Executive Session and reconvene the Regular Session.**

Motion Adopted: 3 Yeas, 2 Absent.

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

E/S Action **There was no action on Executive Session matters.**

M 551 17 Recess **At 12: 18 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: Mr. Arlett, Yea; Mr. Burton, Absent;
Mr. Wilson, Absent; Mr. Cole, Yea;
Mr. Vincent, Yea**

M 552 17 Reconvene **At 1:32 p.m., a Motion was made by Mr. Cole, seconded by Mr. Burton, to reconvene.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Arlett joined the meeting.

Rules **Mr. Moore read the rules of procedure for Public Hearings.**

**Public Hearing/
C/U 2100** **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 RETAIL FLOWER SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.35 ACRES, MORE OR LESS” (Conditional Use No. 2100) filed on behalf of Catherine Schultz (Tax I.D. No. 134-19.00-117.01) (911 Address: 36570 Camp Barnes Road, Frankford).**

**Public
Hearing/
CU 2100
(continued)**

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

The Planning and Zoning Commission held a Public Hearing on September 28, 2017 at which time action was deferred. On October 12, 2017, the Commission recommended that the application be approved with the following conditions:

- a. The Applicant shall comply with any DelDOT requirements associated with the use.**
- b. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- c. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- d. The areas for parking shall be shown on the Final Site Plan and clearly marked on the site itself.**
- e. The failure to abide by these conditions shall result in the termination of this Conditional Use.**
- f. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated September 28 and October 12, 2017.)

The Council found that Catherine Shultz was present on behalf of her application. She stated that she wants to relocate her flower shop to her home; that she has been in business for 32 years; that the business does not really warrant a retail shop as most business is done from home by phone or internet; that it is not a high traffic business; that ten parking spaces would be available; that the existing entrances will be used; that DelDOT has reviewed the site; and that deliveries are made by mini-van in the morning.

In response to questions raised by Council, Ms. Shultz stated that she is not opposed to the sign(s) being unlighted and limited in size.

There were no public comments.

The Public Hearing and public record were closed.

**M 553 17
Amend
Condition**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend Condition No. "c" recommended by the Planning and Zoning Commission to read as follows: "One unlighted sign, not to exceed 16 square feet per side, on the roadway edge, shall be permitted, and one illuminated sign of the same size to be attached to the building shall be permitted."

Motion Adopted: 5 Yeas.

**M 553 17
(continued)**

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

**M 554 17
Adopt
Ordinance
No. 2530/
CU 2100**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2530 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL FLOWER SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.35 ACRES, MORE OR LESS” (Conditional Use No. 2100) filed on behalf of Catherine Schultz (Tax I.D. No. 134-19.00-117.01) (911 Address: 36570 Camp Barnes Road, Frankford), with the following conditions, as amended:

- a. The Applicant shall comply with any DelDOT requirements associated with the use.**
- b. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- c. One unlighted sign, not to exceed 16 square feet per side, on the roadway edge, shall be permitted, and one illuminated sign of the same size to be attached to the building shall be permitted.**
- d. The areas for parking shall be shown on the Final Site Plan and clearly marked on the site itself.**
- e. The failure to abide by these conditions shall result in the termination of this Conditional Use.**
- f. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2101**

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 STORAGE OF CONSTRUCTION EQUIPMENT AND VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 6.61 ACRES, MORE OR LESS” (Conditional Use No. 2101) filed on behalf of 1st State Paving (Tax I.D. No. 233-11.00-17.00 (portion of) (911 Address: 31005 Iron Branch Road, Dagsboro).

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

**Public
Hearing/
CU 2101
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on September 28, 2017 at which time action was deferred. On October 12, 2017, the Commission recommended approval with the following conditions:

- A. The use shall be limited to the parking and storage of vehicles associated with the company. No more than ten vehicles or pieces of equipment may be parked or stored at any one time.**
- B. As stated by the Applicant, the vehicles and equipment shall not be cleaned of paving materials on this site. That shall occur entirely off-site.**
- C. As stated by the Applicant, no maintenance work on the vehicles or equipment shall occur on the site.**
- D. No materials associated with the paving company (such as asphalt, concrete, sand, aggregate or similar materials) shall be dumped or kept on the site at any time.**
- E. There shall not be any inoperable vehicles or equipment stored on the site. Also, no unregistered vehicles or trailers shall be stored on the site.**
- F. The use shall only operate between the hours of 7:30 a.m. and 6:00 p.m., Monday through Saturday.**
- G. The parking and storage areas shall be shown on the Final Site Plan, and clearly marked on the site itself.**
- H. The failure to abide by these conditions shall result in the termination of the Conditional Use.**
- I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated September 28 and October 12, 2017.)

The Council found that Evan Maynard was present on behalf of his application. He stated that that he proposes to use only a portion of the property – the area in front of the back chicken house at the end of the gravel road; that he plans a staging area for equipment, implements and vehicles; that he does not own the property; that the equipment and trucks leave the site between 7:00 a.m. and 7:30 a.m. and return between 5:00 p.m. and 6:00 p.m.; that employees park on the site and then leave and go to the job site; that he has 5 to 7 employees; that no office will be located on the site; that the chicken houses are not being used; that his neighbor across the street has submitted a letter in support of the application; that he keeps one or two dump trucks on the site as well as some pick-up trucks; and that he is just a small contractor and there is not much activity on the site.

Ms. Cornwell reported that there is currently a Conditional Use for a retail gun shop on the site. It was noted that Mr. Maynard does not own or operate the gun shop.

There were no public comments.

(continued) **The Public Hearing and public record were closed.**

**M 555 17
Adopt
Ordinance
No. 2531/
CU 2101**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2531 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE OF CONSTRUCTION EQUIPMENT AND VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 6.61 ACRES, MORE OR LESS” (Conditional Use No. 2101) filed on behalf of 1st State Paving, with the following conditions:

- A. The use shall be limited to the parking and storage of vehicles associated with the company. No more than ten vehicles or pieces of equipment may be parked or stored at any one time.**
- B. As stated by the Applicant, the vehicles and equipment shall not be cleaned of paving materials on this site. That shall occur entirely off-site.**
- C. As stated by the Applicant, no maintenance work on the vehicles or equipment shall occur on the site.**
- D. No materials associated with the paving company (such as asphalt, concrete, sand, aggregate or similar materials) shall be dumped or kept on the site at any time.**
- E. There shall not be any inoperable vehicles or equipment stored on the site. Also, no unregistered vehicles or trailers shall be stored on the site.**
- F. The use shall only operate between the hours of 7:30 a.m. and 6:00 p.m., Monday through Saturday.**
- G. The parking and storage areas shall be shown on the Final Site Plan, and clearly marked on the site itself.**
- H. The failure to abide by these conditions shall result in the termination of the Conditional Use.**
- I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2102**

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 CONCRETE FORM BUSINESS AND EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.6889 ACRE, MORE OR LESS” (Conditional Use No. 2102) filed on behalf of Arturo Granados-Gonzalez (Tax I.D. No. 233-12.00-17.02) (911 Address: 30639 Vines Creek

**Public
Hearing/
CU 2102
(continued)**

Road, Dagsboro).

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 28, 2017 at which time action was deferred. On October 12, 2017, the Commission recommended that the application be approved with the following conditions:

- A. This use shall be limited to the Applicant's concrete form business with equipment storage. No retail sales or other business shall be conducted from the site.**
- B. No manufacturing or concrete mixing shall occur on the site. This prohibition includes the shredding or grinding of any materials.**
- C. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- D. The hours of operation shall be limited to 7:00 a.m. through 6:00 p.m., Monday through Saturday.**
- E. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- F. A fence with landscaping shall be constructed along the perimeter of the site. The fencing and landscaping shall be shown on the Final Site Plan.**
- G. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- H. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District.**
- I. As stated by the Applicant, there shall be no dumping or storage of concrete or similar materials on the site. Also, all trucks and equipment shall be cleaned off-site.**
- J. All maintenance of vehicles and equipment shall be performed indoors.**
- K. The Final Site Plan shall clearly show all areas for vehicle equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
- L. All concrete forms shall be stored in a location that is screened from view from neighboring properties and roadways. These storage areas shall be shown on the Final Site Plan.**
- M. All encroachments shown on the Preliminary Site Plan shall be eliminated.**
- N. The Final Site Plan shall be designed to allow interconnectivity with adjacent properties along Route 26.**
- O. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- P. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**Public
Hearing/
CU 2102
(continued)**

(See the minutes of the Planning and Zoning Commission dated September 28 and October 12, 2017.)

The Council found that Arturo Granados-Gonzalez was present. He stated that the application is for the storage and parking of equipment for his concrete form business; that his business is to pour foundations and footers; that some employees come and park on the site and pick up equipment/vehicles and some go directly to the job site; that employees meet at the site between 7:00 a.m. and 7:15 a.m. and return around 5:30 p.m.; that no business is transacted on the site; that he purchased the property three years ago; that an excavation business was located on the site previously; that he does not live on the site; that he has family living in the house on the site; that approximately 6 people live on the site; that he has put up privacy fencing all the way around the property up to the wooded area; that only 3 or 4 vehicles are on the site during the day but approximately 10 vehicles (but no more than 12) at the end of the work day; that if other equipment is included in the total, a total of 15 vehicles/equipment could be located on the site after work hours; and that he could find another place for some of the equipment.

Public comments were heard.

There were no public comments in support of the application.

Public comments were heard in opposition to the application. Doug Stock, Debbie Layton, Drew Sunderland, and George Raab spoke in opposition to the application. They commented on the traffic implications of this proposed business ongoing and stated that the proposed use is in a high traffic section of the road and people pass on the shoulders of the road; that there have been many accidents in the area and a traffic accident report is needed; that the Applicant has encroached on neighboring property; that there needs to be a State approved entrance and exit; that the traffic concern is a safety issue; that the Applicant does his best to police the property but he does not live on the property; that there are septic and well concerns; that there are environmental concerns, i.e. fluid leakage from vehicles/equipment; that the Applicant has been operating the business illegally; that his business has outgrown the property; that if the application is approved, at the very least a turning lane is needed for the truck traffic; that the Applicant keeps a significant amount of pallets around the perimeter of the property; that the use is not compatible with the area; that the use poses a risk to the health and safety of the residents of the area; that this is an industrial construction business in an Agricultural Residential area; that the Applicant disregards regulatory restraints; that the Applicant does not respect boundaries; that rebar is being discarded on neighboring property creating a safety hazard; that the fence should be moved and landscaping placed on the outside area of the fencing; that approval of this application would set a serious precedent; that there is no evidence in the file that State regulatory agencies have had any input, including

**Public
Hearing/
CU 2102
(continued)**

stormwater, Fire Marshall, DNREC and OSHA; that approval of this application would change the zoning of the site to industrial; that although the zoning would remain AR-1, the Conditional Use stays with the property; that no other Conditional Uses exist in the area; that an updated boundary survey is needed; that they question the structural integrity of the house and pole barn; and that, if approved, a timeframe should be established for the Applicant to meet the conditions of approval; and that neighbors should not have to police the use; and that they question how the County will monitor compliance. George Raab submitted an Exhibit Booklet outlining his position in opposition to the application. The Exhibit Booklet was made a part of the record.

In response to questions raised by Council, Ms. Cornwell reported that the Planning and Zoning Department did send a violation letter to the Applicant in April 2017 and that is why the Conditional Use application was filed.

There were no additional public comments.

The Public Hearing was closed.

The Council discussed the application, including concerns about a septic system inspection by DNREC and the availability of bathroom facilities for employees; the business outgrowing the site; DelDOT's report (service level for the proposed use and entrance approval); and the number of accidents in the area.

It was noted that DelDOT did not require a Traffic Impact Study.

A question was raised as to whether or not the Council could stipulate a timeline/expiration for the Conditional Use. Mr. Moore responded that he would have to research the matter.

**M 556 17
Defer
Action on
CU 2102**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to defer action on Conditional Use No. 2102 for a period of thirty days for receipt of the following information: a response from DNREC, a response from the Delaware State Police, and information on limiting the timeframe for the Conditional Use; once the information requested has been received, a report will be given to Council in public session, after which time the public will have 30 days to respond to any information received (in writing only).

Motion Adopted: 5 Yeas.

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

**M 557 17
Adjourn**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to adjourn at 3:19 p.m.

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.}