

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 10, 2020

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 10, 2020, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
Irwin G. Burton III	Vice President
Douglas B. Hudson	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 433 20
Approve
Agenda**

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

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of October 27, 2020 were approved by consent.

**Public
Comments**

Public comments were heard and the following spoke: Robert Lawson.

**M 434 20
Approve
Consent
Agenda**

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

- 1. Use of Existing Wastewater Infrastructure Agreement, IUA-CU2199
Seaglass at Rehoboth Beach Project, OA Rehoboth, LLC**
- 2. Use of Existing Wastewater Infrastructure Agreement, IUA1098
Ashton Oaks Project, OA Oaks, LLC**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Adminis-
trator's
Report**

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, The Estuary – Phase 1D-2 (Construction Record) received Substantial Completion effective October 26th.

2. Veterans Day Holiday

County offices will be closed on Wednesday, November 11th in honor of Veterans Day. Offices will reopen on Thursday, November 12th, at 8:30 a.m.

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

**CU 2237/
Report
Receipt of
Public
Comments
and Close
Record/
CU 2237**

Jamie Whitehouse, Planning and Zoning Director, reported on Conditional Use No. 2237 filed on behalf of Samuel C. Warrington II. The Council held a Public Hearing on this application on October 27, 2020 at which time action was deferred and the record was left open until close of business on November 9, 2020 so that the public, including the Applicant, could make additional comments, in writing only. Mr. Whitehouse reported that the additional comments (6 letters) were received and have been distributed to Council members. He noted also that a 312 signature petition was received and a 13 signature petition was received, both in opposition to the application

**M 435 20
Close
Public
Record/
CU 2237**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to close the public record on Conditional Use No. 2237 filed on behalf of Samuel C. Warrington II.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Proposed
Ordinance/
Annual
Assessment
Rates/
Herring
Creek**

Hans Medlarz, County Engineer, presented a Proposed Ordinance to establish the annual assessment rates for the Herring Creek Area of the Unified Sewer District. Mr. Medlarz noted that the Herring Creek rate was not set in the past budget because it was not expected that properties would come on line prior to the end of the current fiscal year. Mr. Medlarz reported that the proposed rate is the maximum rate approved under the referendum which will be adjusted with project completion next year.

**Introduction
of Proposed
Ordinance**

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING THE ANNUAL ASSESSMENT RATES FOR THE HERRING CREEK AREA OF THE UNIFIED SEWER DISTRICT".

(continued) The Proposed Ordinance will be advertised for Public Hearing.

**Artesian/
Bulk
Wastewater
Services
Agreement** Hans Medlarz, County Engineer, presented for Council's consideration Addendum No. 4 to the 2016 Bulk Wastewater Services Agreement between Artesian Wastewater Management, Inc. and Sussex County. He noted that this addendum was triggered by DNREC for a revision to the definition of wastewater. DNREC operations permits contain general statements about the source of the wastewater to be treated such as a specific County sewer district area or a specific subdivision. With all utilities moving towards regionalization of their respective systems, this identification is obsolete and DNREC suggested updating the wastewater definition in the Agreement.

**M 436 20
Approve
Addendum
to Bulk
Wastewater
Services
Agreement/
Artesian** A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Addendum 4 to the Bulk Wastewater Services Agreement between Sussex County and Artesian Wastewater Management, Inc., as presented.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Artesian/
Amendment
to Ellendale
Wastewater
Services
Agreement** Hans Medlarz, County Engineer, presented for Council's consideration of an Amendment to the Ellendale Water District Agreement with Artesian Water Company, Inc. This Agreement identifies Artesian Water Company as the supplier of potable water and provider of certain services. The original intent of the Agreement was to construct a water tower; however, the now complete and permitted design identified a pressure tank approach as more advantageous. The Engineering Department approached Artesian with a modification request to where the utility will assume all operational responsibilities under the established bulk rate while the County will assume the full construction and maintenance of the pressure tank system.

**M 437 20
Approve
Amendment
to Ellendale
Wastewater
Services
Agreement/
Artesian** A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Amendment No. 1 to the Ellendale Water District Agreement between Sussex County and Artesian Water Company, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

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

SCRWF & Rehoboth Beach WTP/ Town of Selbyville Agreement **Hans Medlarz, County Engineer, presented for Council's consideration an Agreement for Services between the Town of Selbyville and Sussex County with the Town to process wastewater through the County's Ocean Outfall. This Agreement is for the purpose of changing the billing arrangements; it does not change the allocation of up to 2 MGD in the Ocean Outfall for conveyance and discharge of the treated sewage effluent.**

M 438 20 Approve Town of Selbyville Agreement/ SCRWF & Rehoboth Beach WTP **A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Agreement for Services with the Town of Selbyville for the Ocean Outfall, as presented.**

Motion Adopted: 4 Yeas, 1 Absent.

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

SCRWF & Rehoboth Beach WTP/ Electrical Construction/ Change Orders **Hans Medlarz, County Engineer, presented for Council's consideration a revised Change Order No. 7 and Change Order No. 8 to the SCRWF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 – Electrical Construction. Revised Change Order No. 7, in the amount of \$6,582.80, is for a design change – additional sensors for the City of Rehoboth oxidation ditch electrical equipment. Change Order No. 8, in the amount of \$2,249.00, is also for a design change – modifications to conveyor starter, circuit breaker adjustments, new conduits in the switchgear and a credit for interface terminals.**

M 439 20 Approve Change Orders/ SCRWF & Rehoboth Beach WTP/ Electrical Construction **A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that revised Change Order No. 7 and Change Order No. 8 for Contract C19-17, SCRWF Treatment Process Upgrade No. 3 and Rehoboth Beach WTP Capital Improvement Program, Phase 2 – Electrical Construction, be approved, increasing the contract by \$6,582.80 and \$2,249.00, respectively, for a new contract total of \$21,794,361.00.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Western Sussex Transmission Facilities/ GMB Contract **Hans Medlarz, County Engineer, presented for Council's consideration Amendment No. 3 to the Owner-Engineer Agreement with George, Miles & Buhr, LLC (GMB). GMB's original fee estimate included 65 weeks of construction administration and inspection services as compared to an actual construction period of 80 weeks. An additional fee of \$22,000.00 is needed to cover the additional 15 weeks of construction and start-up coordination of the Bridgeville pump stations.**

M 440 20
Approve
GMB
Contract
Amendment
No. 3/
Western
Sussex
Trans-
mission
Facilities

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 3 to the Base Engineering Contract for Western Sussex with George, Miles and Buhr, LLC be approved in the amount not to exceed \$22,000.00 for additional Construction Administration and Inspection Services.

Motion Adopted: 4 Yeas, 1 Absent.

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

Western
Sussex
Trans-
mission
Facilities

Hans Medlarz, County Engineer, presented for Council's consideration Change Order No. 3 to Contract 4, Western Sussex Transmission Facilities, Pump Stations, Project S19-28. The Change Order is for a waterline relocation.

M 441 20
Approve
Change
Order 3/
Western
Sussex
Trans-
mission
Facilities/
Pump
Stations

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 3 for Project S19-28, Western Sussex Transmission Facilities: Contract 4: Pump Stations, be approved, increasing the Contract by \$32,644.19 for a new contract total of \$3,332,270.97.

Motion Adopted: 4 Yeas, 1 Absent.

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

FY 21
Ocean
Outfall
Inspection
Project

Mark Parker, Assistant County Engineer, presented a recommendation to award Project G21-06, FY 21 Ocean Outfall Inspection. Mr. Parker reported that three bids were received and that TNJ Marine, Inc. submitted the low Base Bid in the amount of \$69,250.00. The Engineering Department recommends awarding the bid to TNJ Marine, Inc.

M 442 20
Award
Ocean
Outfall
Inspection
Project

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the FY 21 Ocean Outfall Inspection Project be awarded to TNJ Marine, Inc. for an amount of \$69,250.00 which represents the low Base Bid received by the County; additionally, any repairs authorized by the County as a result of the initial inspection shall be completed per the add/alternate unit prices submitted by TNJ Marine, Inc.

Motion Adopted: 4 Yeas, 1 Absent.

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

Existing Wastewater Infrastructure Use Amendment/H&D Townhouses

John Ashman, Director of Utility Planning, presented an amendment to an existing Wastewater Infrastructure Use Agreement for H&D Subdivision, LLC for the H&D Townhomes (Sea Edge) project in the Millville area. The original agreement was approved based on a catch-up contribution for the project connecting 58 EDUs to the County's existing infrastructure. The developers of the project elected to eliminate the clubhouse originally proposed for the project, therefore, eliminating one lateral connection for a new total of 57 and reducing the catch-up contribution required. This reduction in connections will reduce the financial contribution by \$989.57. H&D Subdivision, LLC has previously completed payment of the contribution in full and, therefore, the County will need to reimburse the Developer.

M 443 20 Approve Existing Wastewater Infrastructure Use Agreement Amendment

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 amended Existing Wastewater Infrastructure Use Agreement between Sussex County and H&D Subdivision, LLC for the reduction and catch-up contribution, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

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

Grant Requests

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

M 444 20 Councilmanic Grant

A Motion was made by Mr. Burton, seconded by Mr. Hudson to give \$3,000.00 from Mr. Burton's Councilmanic Grant Account to the Boy Scouts of America Troop #1 for equipment expenses.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 445 20 Councilmanic Grant

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give \$3,100.00 from Mr. Burton's Councilmanic Grant Account to Sussex Central High School for equipment expenses.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 446 20
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$21,000.00 from Mr. Wilson's Councilmanic Grant Account to the Georgetown Historical Society for Barrel Barn renovations.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 447 20
Council-
manic
Grant**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give \$1,500.00 from Mr. Burton's Councilmanic Grant Account to the Lewes Public Library for festival expenses.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Introduction
of Proposed
Ordinances**

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 235-30.00-58.02 (PORTION OF)".

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 132-2.00-264.00 (PORTION OF)".

The Proposed Ordinances will be advertised for Public Hearing.

**Council
Members'
Comments**

Council Members' Comments

Mr. Hudson recognized the 245th birthday of the United States Marines.

**M 448 20
Go Into
Executive
Session**

At 11:00 a.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson, to recess and go into Executive Session.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Executive
Session**

At 11:05 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 land acquisition. The Executive Session concluded at 1:30 p.m.

M 449 20 **At 1:35 p.m., a Motion was made by Mr. Burton, seconded by Mr. Hudson, to**
Reconvene **come out of Executive Session and reconvene the Regular Session.**
Regular
Session **Motion Adopted: 3 Yeas, 2 Absent.**

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

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

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

Mr. Wilson joined the meeting.

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**
CU 2234 **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A**
FIBERGLASS SWIMMING POOL AND SPA DISPLAY AND
LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN
PARCEL OF LAND LYING AND BEING IN INDIAN RIVER
HUNDRED, SUSSEX COUNTY, CONTAINING 2.70 ACRES, MORE OR
LESS” (Conditional Use No. 2234) filed on behalf of James Jones (Tax I.D.
No. 234-28.00-67.00) (911 Address: 28984 Cordrey Rd, Millsboro).

The Planning and Zoning Commission held a Public Hearing on this
application on October 8, 2020 at which time action was deferred. On
October 22, 2020, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated October 8
and 22, 2020.)

Jamie Whitehouse, Planning and Zoning Director, presented the
application.

The Council found that that James Jones was present on behalf of his
application. He stated that he proposes to have a fiberglass pool and spa (one
each) on display on the site and that he proposes to operate a landscaping
business from the site; that he lives on the site; that there will be no
stockpiling of pools or spas on the site; that the landscaping business will
operate from the rear portion of the property and that he will not store
landscaping materials on the site; that only vehicles related to the business will
be parked there; and that there is a 4 by 8 sign on the property that he wishes
to keep.

There were no public comments.

The Public Hearing and public record were closed.

**M 450 20
Adopt
Ordinance
No. 2750/
CU 2234**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to Adopt Ordinance No. 2750 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FIBERGLASS SWIMMING POOL AND SPA DISPLAY AND LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.70 ACRES, MORE OR LESS” (Conditional Use No. 2234) filed on behalf of James Jones, with the following conditions:

- a. The use shall be limited to a landscaping business and the display of model swimming pools and spas that are for sale. No other sales shall occur on the property.**
- b. No pools or spas shall be constructed, stockpiled or inventoried on the property. As stated by the Applicant, all swimming pools and spas on the property shall be display models, used by customers to inspect prior to ordering the structures for delivery from the off-site manufacturer directly to their properties.**
- c. No more than one pool and one spa shall be displayed on the site at any one time. The location of these displays shall be shown on the Final Site Plan.**
- d. As stated by the Applicant, the home on the property shall be the owner’s primary residence which may include a small office for the business.**
- e. The landscaping business shall be located at the rear of the property, with all vehicles and trailers parked at the rear of the premises. The parking area for the business vehicles and trailers shall be shown on the Final Site Plan and clearly shown on the site itself. All other equipment shall be stored within the existing pole building on the site.**
- f. All vehicle and equipment maintenance shall only occur within the existing pole building.**
- g. The hours of operation shall be limited to 7:00 a.m. until 7:00 p.m., unless the Applicant is providing services for snow removal, storm damage or from similar causes.**
- h. No grinding, shredding, mulching or dyeing of materials shall occur on the site.**
- i. No landscaping materials shall be brought onto the site for dumping.**
- j. As stated by the Applicant, signage shall be limited to one lighted sign along the roadway not to exceed 32 square feet in size.**
- k. Any lighting directed at the display models shall be screened so that it does not shine on neighboring properties or roadways. Any such lighting shall be turned off no later than 10:00 p.m. each day.**
- l. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.**
- m. All entrances shall be subject to all DelDOT requirements.**
- n. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent.

**M 450 20
(continued)**

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

**Public
Hearing/
CU 2240**

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 PUBLIC UTILITY ELEVATED STORAGE TANK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.32 ACRE, MORE OR LESS” (Conditional Use No. 2240) filed on behalf of Tidewater Utilities, Inc. (Tax I.D. No. 334-12.00-107.00 (portion of) (911 Address: 19483 John J. Williams Highway, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on October 8, 2020 at which time action was deferred. On October 22, 2020, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated October 8 and 22, 2020.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found Jim Fuqua, Attorney, was present on behalf of the application with Greg Coury with Tidewater Utilities and Robert Palmer with Beacon Engineering. Mr. Fuqua stated that the Applicant is requesting approval of an elevated water storage tank to be located on lands of the Cape Henlopen School District (the rear portion of the Beacon Middle School site); that the school district previously provided Tidewater an option for Tidewater to purchase an easement on that property for a water storage facility at some future date when a need is identified; that the need has been established from the growth has occurred; that the existing water tower on Route One is not sufficient to meet the future needs for the area; that the tank will be located on a 14,125 square foot easement area located to the rear of the school building; that the site borders Mulberry Knoll Road and there will be a construction and maintenance access easement from that road and a vehicle access to the tower site through the school property; that the entire easement area will be enclosed with a security fence; that there will be security lights at the base of the tower; that the site and a large area surrounding the site is designated as being in an Investment Level 2 Area according to the Strategies for State Policies and Spending; that under the 2019 Sussex County Comprehensive Plan, the proposed site is totally surrounded by the Coastal Area and the Commercial Area, both of which are growth areas; that the proposed tank will be located in the south central portion of the large service area; that the Public Service Commission has granted this area as a service territory; that the area is where growth is occurring and will continue to grow into the future; and that the location is an appropriate and ideal location for the proposed use.

**Public
Hearing/
CU 2240
(continued)**

Mr. Fuqua provided a history of Tidewater Utilities and the services the company provides, reviewed the applicable legal standards for the proposed conditional use, reviewed the specifics of the proposed water storage tank and the construction of the tank; and reviewed plans for maintenance and inspection of the tank.

There were no public comments.

The Public Hearing and public record were closed.

**M 451 20
Adopt
Ordinance
No. 2751/
CU 2240**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to Adopt Ordinance No. 2751 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PUBLIC UTILITY ELEVATED STORAGE TANK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.32 ACRE, MORE OR LESS” (Conditional Use No. 2240) filed on behalf of Tidewater Utilities, Inc., with the following conditions:

- a. The maximum capacity of the tower shall not exceed 1,000,000 gallons.**
- b. The maximum height of the tower shall be 160 feet.**
- c. The lighting at the tower shall be limited to normal security lights which shall be shielded from nearby neighbors and roadways and safety lights required by the Federal Aviation Administration on the tower.**
- d. The tower shall be painted white or a sky neutral color and may include signage for both Tidewater and the Cape Henlopen School District or Beacon Middle School.**
- e. The water facilities shall be surrounded by a security fence at least eight (8) feet in height.**
- f. Structural design and operation of the water facility shall comply at a minimum with industry standards such as The American Water Works Association.**
- g. The Applicant will allow placement of antenna on the tower by the Cape Henlopen School District, and other government and public safety agencies.**
- h. One lighted ground-level sign shall be permitted identifying the owner and providing emergency contact information**
- i. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all applicable agency approvals.**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
CU 2241**

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 TRUCK AND TRAILER REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.69 ACRES, MORE OR LESS” (Conditional Use No. 2241) filed on behalf of Jonathan J. Bowman (Tax I.D. No. 333-7.00-32.00) (911 Address: 34647 Millsboro Highway, Millsboro).

The Planning and Zoning Commission held a Public Hearing on this application on October 8, 2020 at which time action was deferred. On October 22, 2020, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated October 8 and 22, 2020.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Mackenzie Peet, Attorney, was present on behalf of the Applicant. She stated that the Applicant operates a truck and trailer repair business; that he and his wife live on the property; that the County received two complaints resulting in two violations on the property/property owner; that for Mr. Bowman, this business is a hobby; that he has no employees and works 1 to 2 days a week; that the Applicant’s friend works on the site at varied hours; that the Applicant does not generate a profit from this business/hobby but his friend does make some profit; that there is a dumpster located on the site; that all waste/oil is disposed of per regulations; that the area is largely undeveloped; that the repairs can create noise on the property and the Applicant is considering adding cypress trees around the property to reduce the noise; that there will be an extension to the existing pole barn for the storage of trucks and trailers; that he proposes to move the operation to the back of the property; that a Traffic Impact Study was not required; and that the area is rural with few neighbors.

There were no public comments.

The Public Hearing and public record were closed.

**M 452 20
Adopt
Ordinance
No. 2752/
CU 2241**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2752 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRUCK AND TRAILER REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.69 ACRES, MORE OR LESS” (Conditional Use No. 2241) filed on behalf of Jonathan J. Bowman, with the following conditions:

**M 452 20
Adopt
Ordinance
No. 2752/
CU 2241
(continued)**

- a. **Before Final Site Plan approval occurs, the Applicant shall clean up the property and remove any inoperable trucks, trailers, or vehicles. This clean-up shall be verified by a Sussex County Constable.**
- b. **No sign shall be permitted.**
- c. **Security lighting shall be shielded and downward screened and shall be directed away from neighboring properties and roadways.**
- d. **Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
- e. **No junked, unregistered or permanently inoperable vehicles, trucks or trailers shall be stored on the site.**
- f. **There shall be no more than five (5) trucks or trailers on the site at any time.**
- g. **There shall not be any parking in the front yard setback.**
- h. **The parking and repair areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles, trucks and trailers shall only be parked and worked on within these designated areas.**
- i. **All oils and other fluids shall be property stored indoors in appropriate containers. The Applicant shall also comply with all State and Federal requirements for the disposal of these fluids.**
- j. **The site shall be subject to all DelDOT entrance and roadway requirements.**
- k. **As stated by the Applicant, there shall be a perimeter buffer of cypress trees or similar vegetation that shall be planted and maintained to screen the use from neighboring properties and roadways and to suppress noise coming from the truck repairs. The location and details of this perimeter buffer shall be shown on the Final Site Plan.**
- l. **Any violation of these conditions may be grounds for termination of this Conditional Use.**
- m. **The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
CZ 1925**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 25.63 ACRES, MORE OR LESS” (Change of Zone No. 1925) filed on behalf of Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut (Tax I.D. No. 134-19.00-22.00 (portion of) (911 Address: None Available).

**Public
Hearing/
CZ 1925
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on October 8, 2020 at which time action was deferred. On October 22, 2020, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated October 8 and 22, 2020.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Brenton Archut and Russell Archut were present on behalf of their application. They stated that they wish to rezone only 2.99 acres of the 25.63 acre parcel; that the proposal is that the front portion of the property on the northern-most part will be zoned B-2; that they wish to provide a convenient location for services to households in a growing area; that the proposed use will provide business opportunities to local and area business owners; that the proposed use is for light retail and offices; that there is a need for services in the area; that having these small types of local businesses will reduce congestion on area roads by providing a variety of services to local residents; that the closest house is approximately 180 feet away through a wooded area; that Tidewater is willing and able to serve the site; that no Traffic Impact Study was required at this time, however, that need will be evaluated if the rezoning is approved and once a site plan is submitted; that they will comply with all DelDOT requirements; that the rezoning meets the goals of the Sussex County Land Use Plan as the site is located in the Coastal Area which is considered a growth area; and that B-2 zoning is consistent with the surrounding area.

There were no public comments.

The Public Hearing and public record were closed.

**M 453 20
Amend
Title of
Ordinance/
CZ 1925**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to amend the short title of the Ordinance by inserting the following words after “CONTAINING” in the last line: “2.99 ACRES OF 25.63 ACRES, MORE OR LESS”.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 454 20
Adopt
Ordinance
No. 2753/
CZ 1925**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2753 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY,

M 454 20 **CONTAINING 2.99 ACRES OF 25.63 ACRES, MORE OR LESS” (Change**
(continued) **of Zone No. 1925) filed on behalf of Lemuel H. Hickman GST Exempt Trust**
 fbo Brenton Archut.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 455 20 **A Motion was made by Mr. Burton, seconded by Mr. Hudson, to adjourn at**
Adjourn **2:53 p.m.**

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.}