

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 28, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 28, 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 593 17
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of November 7 and 14, 2017 were approved by consent.

**Corre-
spondence**

The following letters and cards were received in appreciation of Human Service Grants received: Oak Orchard Boys & Girls Club, The Arc of Delaware, Delaware Adolescent Program, Delaware Hospice, Nanticoke Senior Center, Junior Achievement, Boys & Girls Clubs of Delaware, The YMCA of Delaware, and New Hope Center.

**Public
Comments**

Public Comments

Phoebe Cottingham, David Stevenson and Cathy Watts commented on the scheduling of the public hearing on the Right to Work / Labor Union Ordinance.

Dan Kramer questioned why the Council is considering the introduction of a new Commercial Zoning Ordinance when the old one is still outstanding and he commented on the scheduling of the Special Events Ordinance on this date.

**Public
Comments
(continued)**

Paul Reiger commented on Board of Adjustment matters.

Representative Tim Dukes commented on the Right to Work initiative.

**Public
Hearing/
Carillon
Woods
Expansion
of the
SCUSSD**

A Public Hearing was held to consider extending the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD), Long Neck Area, to include a project known as Carillon Woods. John Ashman, Director of Utility Planning, 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.

Mr. Ashman reported that no correspondence has been received regarding the proposed expansion.

There were no public comments. The Public Hearing and public record were closed.

**M 594 17
Adopt
R 033 17**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Resolution No. R 033 17 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) LONG NECK AREA, TO INCLUDE PARCEL 234-23.00-260.00 AND A PORTION OF PARCEL 269.18 LOCATED ON THE SOUTH SIDE OF INDIAN MISSION ROAD LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE” (CARILLON WOODS).

Motion Adopted: 5 Yeas.

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

**Wastewater
Agreement**

Mr. Lawson presented a wastewater agreement for the Council’s consideration.

**M 595 17
Execute
Wastewater
Agreement/
Fernmoor
Homes @
Woodlands
of Peppers
Creek DE
LLC**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, for Sussex County Project No. 81-04, Agreement No. 666-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Fernmoor Homes @ Woodlands of Peppers Creek DE LLC for wastewater facilities to be constructed in The Woodlands of Peppers Creek – Phase 2 (Construction Record), located in the Dagsboro/Frankford Sanitary Sewer District.

Motion Adopted: 5 Yeas.

**M 595 17
(continued)**

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

**Proposed
2018
Schedule**

Mr. Lawson presented the proposed Sussex County 2018 Schedule for Council's consideration.

**M 596 17
Approve
2018
Schedule**

A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the Council approves the 2018 holiday schedule and the 2017 County Council meeting schedule, as amended.

HOLIDAY SCHEDULE

New Year's Day	January 1 (Monday)
Martin Luther King, Jr. Day	January 15 (Monday)
Good Friday	March 30 (Friday)
Memorial Day	May 28 (Monday)
Independence Day	July 4 (Wednesday)
Labor Day	September 3 (Monday)
Election Day	November 6 (Tuesday)
Return Day	November 8 (Thursday)
Veterans Day	November 12 (Monday)
Thanksgiving	November 22 (Thursday) November 23 (Friday)
Christmas	December 24 (Monday) December 25 (Tuesday)

(The County grants two floating holidays to eligible employees per calendar year in accordance with the Floating Holiday Policy.)

COUNCIL NO MEETING DATES

**JANUARY 16
FEBRUARY 13
MARCH 6
MARCH 27
APRIL 3
MAY 8
MAY 29
JULY 3
JULY 10
AUGUST 7
AUGUST 28
SEPTEMBER 4
OCTOBER 16
NOVEMBER 6
NOVEMBER 20
DECEMBER 18
DECEMBER 25**

**M 596 17
(continued)**

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. Caroling on The Circle

A reminder that the annual Caroling on The Circle program will take place on Monday, December 4th, at 6:30 p.m. in front of the Sussex County Courthouse. This is a free event sponsored by the Sussex County Council each year. Everyone is welcome and encouraged to attend, and to bring a food item for the less fortunate if they can afford to do so. Hot chocolate and cookies will be served at the Georgetown Fire Hall after the program. The "Pack the POD" campaign will remain in full swing until the end of December.

2. Mildred King Luncheon

Sussex County offices will close on Friday, December 1st, from 11:00 a.m. to 2:00 p.m. to allow employees to attend the annual Mildred King Luncheon. Members of the public with business to conduct are asked to plan accordingly. County offices will reopen promptly at 2:00 p.m.

3. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Hopkins - Pettyjohn Subdivision (aka Red Mill Pond North) – Phase 6 received Substantial Completion effective November 16th.

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

**Fourth
Quarter
Employee
Recognition
Awards**

Mrs. Jennings reported that the County recognizes employees for exceptional service and that a total of twenty-seven (27) employees received recognition for the Fourth Quarter of 2017. Mrs. Jennings announced that four employees received special recognition for the Fourth Quarter of 2017. Jordan Dattol in Emergency Medical Services was selected to receive the Fourth Quarter Customer Service Award, and three employees received Honorable Mention: Richard Jackson (Utility Engineering), Matt Murray (Utility Engineering), and Clint Whaley (Building Code).

**Draft
Ordinance/
Commercial
Districts**

Vince Robertson, Assistant County Attorney, and Janelle Cornwell, Planning and Zoning Director, presented a Draft Ordinance to address the commercial districts. Ms. Cornwell noted that public hearings were held on a similar ordinance; however, it was determined that the Proposed Ordinance required some changes/tweaks. It was decided that

Draft Ordinance/ Commercial Districts **the Proposed Ordinance be redrafted and introduced and thereafter, go through the public hearing process. It was noted that most of the tweaks pertain to a new table included in the new Draft Ordinance.**

(continued) **In response to a question raised by Mr. Vincent, Mr. Robertson stated that the first Proposed Ordinance is still pending and that when a new ordinance is acted upon, the first one will be denied for the purpose of removing it from the books/record.**

Introduction of Proposed Commercial Districts Ordinance **Mr. Arlett introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES I, X, XIA, XX, XXI, XXIII, XXV AND XXVII BY AMENDING SECTIONS 115-4, 115-5, 115-75, 115-83.10, 115-156, 115-195.4, 115-159.5, 115-161.1, 115-170.1, 115-180, 115-194.1, AND 115-218, AND BY CREATING NEW ARTICLES XA, XB, XIB, XIC, XID, XIE, AND XIF AND ADDING NEW SECTIONS 115-75.1 THROUGH 115-75.13 AND 115-83.11 THROUGH 115-83.46 TO CREATE A NEW “B-2 BUSINESS COMMUNITY” DISTRICT; “B-3 BUSINESS RESEARCH” DISTRICT; “C-2 MEDIUM COMMERCIAL” DISTRICT; “C-3 HEAVY COMMERCIAL” DISTRICT; “C-4, PLANNED COMMERCIAL” DISTRICT; “C-5, SERVICE/LIMITED MANUFACTURING” DISTRICT, AND “I-1, INSTITUTIONAL” DISTRICT; TO CLOSE THE CR-1 AND B-1 DISTRICTS; TO AMEND “115 ATTACHMENT 3, SUSSEX COUNTY TABLE III”; TO CREATE “115 ATTACHMENT 4, SUSSEX COUNTY TABLE IV”. The Proposed Ordinance will be advertised for Public Hearing.**

General Labor & Equipment Contract/ Change Order **Hans Medlarz, County Engineer, presented Change Order No. 8 to the General Labor & Equipment Contract. This Change Order is for a scope modification at no additional expense and is due to the need for emergency work at Pump Station 54. This Change Order also includes work at the Wolfe Neck Wastewater Treatment Plant including raising structures and the electrical control cabinet due to frequent flooding. Mr. Medlarz noted that the Department proposes to give up the work in Dewey Beach on Pump Station 224 and substitute the above mentioned changes to the scope of work.**

M 597 17 Approve Change Order/ General Labor & Equipment Contract **A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that Change Order No. 8 for Contract No. 17-01, FY 17 General Labor & Equipment Contract, be approved which modifies the scope of work to include emergency repairs at Pump Station 54 and elevation modifications at Pump Station 224, with no change in Contract amount.**

Motion Adopted: 5 Yeas.

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

Wolfe Neck Administrative Building Remediation Repairs **Hans Medlarz, County Engineer, presented a Balancing Change Order and request to grant Substantial Completion for the Wolfe Neck Administration Building Remediation and Repairs Project. Mr. Medlarz discussed the mold issues at the facility, the vacating of the building and the emergency remediation. He reported that the contract work has been completed; however, he noted that the contractor ran into a couple of minor issues including roofing/flashing, the need for a partition wall and several other unit price items. The close out change order is in the amount of \$4,992.15.**

M 598 17 Approve Change Order/ Wolfe Neck Administrative Building Remediation Repairs **A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract 18-11, Wolfe Neck Administration Building Remediation and Repairs, be approved increasing the contract amount by \$4,992.15 for a new total of \$60,892.15.**

Motion Adopted: 5 Yeas.

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

Use of Existing Infrastructure Agreement/ Salt Aire **John Ashman, Director of Utility Planning, presented a Proposed Use of Existing Infrastructure Agreement between Sussex County and Land & Marketing Corporation for the Salt Aire development. Under this arrangement, all of the development will be connected to existing infrastructure and, in return, Land & Marketing Corporation will contribute \$11,861.20 for the perpetual use of these facilities.**

M 599 17 Approve Use of Infrastructure Agreement/ Salt Aire **A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Land & Marketing Corporation for a capacity allocation and regional transmission system, 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**

Use of Existing Infrastructure Agreement/ Middle Creek Preserve **John Ashman, Director of Utility Planning, presented a Proposed Use of Existing Infrastructure Agreement between Sussex County and Middle Creek Preserve, LLC for the Middle Creek Preserve project in the Angola Neck Area. Under this arrangement, the Development will construct an on-site pump station and gravity collection system that will connect to existing regional infrastructure and, in return, Middle Creek Preserve, LLC will contribute \$83,520.00 for the perpetual use of these transmission facilities.**

M 600 17
Approve
Use of
Existing
Infra-
structure
Agreement/
Middle
Creek
Preserve

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Middle Creek Preserve, LLC for a capacity allocation and regional transmission system, 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

Grant
Request

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

M 601 17
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to the Greater Seaford Chamber of Commerce for parade expenses.

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
Zoning
Ordinances

Mr. Vincent introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TREE CARE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 3.9713 ACRES, MORE OR LESS" (Conditional Use No. 2121) filed on behalf of Cheryl Webster and Kenna Nethken (Tax I.D. No. 331-6.00-134.00) (911 Address: 10404 Old Furnace Road, Seaford).

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PLANT, TREE, AND LAWN CARE DIAGNOSTIC CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS" (Conditional Use No. 2122) filed on behalf of Richard Thurman Jr. (Arbor Care) (Tax I.D. No. 234-6.00-88.01) (911 Address: 20182 Robinsonville Road, Lewes).

The Proposed Ordinances will be advertised for Public Hearing.

Council
Members'
Comments

Council Members' Comments

Mr. Arlett asked Council to consider a date in December for the public hearing on the Right to Work Ordinance. Staff and Council discussed

(continued) scheduling and advertising requirements for public hearings. There was no consensus to hold a special meeting in December and it was decided that the Public Hearing will be held on January 2, 2018.

**M 602 17 A Motion was made by Mr. Cole, seconded by Mr. Arlett, to recess the
Go Into 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 An Executive Session of the Sussex County Council was held in the
Session Basement Caucus Room for the purpose of discussing matters relating to
pending/potential litigation and land acquisition. The Executive Session
concluded at 12:50 p.m.**

**M 603 17 At 12:53 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to
Reconvene come out of Executive Session and to reconvene the Regular Session.**

Motion Adopted: 3 Yeas, 2 Absent.

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

**M 604 17 A Motion was made by Mr. Cole, seconded by Mr. Arlett, to negotiate and
Land enter into a contract and proceed to closing on property identified as Land
Purchase 2017-D.**

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 605 17 A Motion was made by Mr. Cole, seconded by Mr. Arlett, to negotiate and
Land enter into a contract and proceed to closing on property identified as Land
Purchase 2017-E.**

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 606 17 At 12:54 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to
Recess recess until 1:30 p.m.**

**M 606 17
(continued)**

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 607 17
Reconvene**

At 1:38 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to reconvene.

Motion Adopted: 4 Yeas, 1 Absent.

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

Rules

Mr. Moore reviewed the rules of procedure for public hearings on zoning matters.

**Public
Hearing/
CZ 1830**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 24.98 ACRES, MORE OR LESS” (Change of Zone No. 1830) filed on behalf of H. Dale Parsons (Tax I.D. No. 135-16.00-23.00) (911 Address: Not Available).

Janelle Cornwell, Planning and Zoning Director, presented the Change of Zone application.

An Exhibit Book was previously distributed to the Council.

The Planning and Zoning Commission held a Public Hearing on this application on October 26, 2017 at which time action was deferred; on November 16, 2017, the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated October 26 and November 16, 2017.)

Mark Davidson with Pennoni Associates was present on behalf of the application with the Applicant, H. Dale Parsons. They stated that this application is for the rezoning of a portion of land located on the south side of Lewes Georgetown Highway / Route 9; that the Parsons family has owned the property for over 20 years; that the property is currently dual zoned as Agricultural Residential and General Commercial and the Applicant is seeking to rezone the AR-1 portion to CR-1; that currently, Mr. Parsons has two storage buildings on the site for the use and extension of his existing businesses to do equipment and boat storage and repairs;

**Public
Hearing
CZ 1830
(continued)**

that he wishes to continue operating a repair business; that no Traffic Impact Study was required by DelDOT; that there are other commercial properties in the area as well as limited industrial zoned parcels; and that according to the Strategies for State Policies and Spending, the area is in an Investment Level 4 Area and immediately adjacent to Level 2 and 3 Investment Areas.

There were no public comments.

The Public Hearing and public record were closed.

**M 608 17
Adopt
Ordinance
No. 2534/
CZ 1830**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2534 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 24.98 ACRES, MORE OR LESS" (Change of Zone No. 1830) filed on behalf of H. Dale Parsons.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ 1831**

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-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 16.669 ACRES, MORE OR LESS" (Change of Zone No. 1831) filed on behalf of East Gate Farm, Inc. (Tax I.D. No. 330-11.00-73.09) (911 Address: Not Available).

Janelle Cornwell, Planning and Zoning Director, presented the Change of Zone application.

An Exhibit Book was previously distributed to the Council.

The Planning and Zoning Commission held a Public Hearing on this application on October 26, 2017 at which time action was deferred; on November 16, 2017, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated October 26 and November 16, 2017.)

The Council found that Dennis Schrader, Attorney, was present on behalf of the application with Ken Christenbury with Axiom Engineering and D.J.

**Public
Hearing/
CZ 1831
(continued)**

Hughes with Davis, Bowen & Friedel, Inc. They discussed the proposed Concept Plan, the location of the property near the City of Milford; the adjacent Bayhealth facility, the plan to develop the property for general and/or professional offices (as a neighborhood business development; plans for water and wastewater service, stormwater management, and DelDOT's findings. They stated that the Applicant proposes no more than 75,000 square feet of space for offices; that according to the Comprehensive Plan, the area for the proposed project is identified for purposes of future land use as a Town Center Area, an area in which the proposed use is recommended; that according to the Strategies for State Policies and Spending, the site is located in an Investment Level 3 Area; that the proposed project is in character with the nature of the area and it will serve the residents in the area and the residents of the larger Milford community by creating an office center area near the soon to be completed Health Campus; that the offices will provide a necessary service to residents; that DelDOT did not require a Traffic Impact Study; that the project will be served with onsite water and an onsite wastewater system; that the site is not suitable for agriculture use or residential use long term; that the site is not contiguous to the City of Milford and there are no immediate annexation plans; that a PLUS review was not required; and that if the Change of Zone is granted, they will be required to obtain agency approvals, including approval for access to the site from Route One.

Public comments were heard.

Charles Wagner spoke in support of the application. He stated that the area will be developed, that access to the property will be a challenge for DelDOT, and that professional and medical offices will provide needed services in the area.

Bill Pfaffenhauser stated that this property will someday be developed and that he prefers controlled development. He expressed concern about the different types of commercial uses that would be allowed and he questioned if there can be a guarantee that it will be developed as professional buildings.

Kathleen Trombello, Kpakiwa, Larry Trombello, Debra Finny, Joanne Burbage, and Frank Sochak spoke in opposition to the application. They stated that the area is rural/residential, that the property could be used for residential homes which would be in character with the area; that they wish to protect the integrity of the neighborhood and their quality of life; that the proposed use would create traffic problems; that there is plenty of open space south of the medical facility on Route One that would be more suitable for a commercial use; that there is plenty of retail in the area; that no more retail shops are needed; that the County needs to preserve the eastern side of Delaware; that the proposal interferes with the Coastal Zone Act; and that approval of this application would set a precedent in the area.

There were no additional public comments.

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

M 609 17 A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action
Defer for one week on Change of Zone No. 1831 filed on behalf of East Gate
Action/ Farm, Inc.
CZ 1831

Motion Adopted: 5 Yeas.

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

Public A Public Hearing was held on the Proposed Ordinance entitled “AN
Hearing/ ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF
CZ 1833 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 BROADKILL
HUNDRED, SUSSEX COUNTY, CONTAINING 2.13 ACRES, MORE OR
LESS” (Change of Zone No. 1833) filed on behalf of Eagles Nest Fellowship
Church (Tax I.D. No. 235-15.00-7.01) (911 Address: 13275 Reynolds Road
and 26381 Broadkill Road, Milton).

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

**The Planning and Zoning Commission held a Public Hearing on this
application on October 26, 2017 at which time action was deferred; on
November 16, 2017 the Commission recommended approval.**

**(See the minutes of the Planning and Zoning Commission dated October 26
and November 16, 2017.)**

An Exhibit Booklet was previously distributed to Council members.

**The Council found that Mark Davidson with Pennoni Associates was
present on behalf of the application with members of the Eagles Nest
Fellowship Church. He reported on the history of the property and detailed
the various past uses. He stated that DelDOT did not require a Traffic
Impact Study; that the proposed rezoning is in character with the area and
is directly across from commercial parcels; that the property is in a
Developing Area; that according to the Strategies for State Policies and
Spending Map, the site is in an Investment Level 2 Area; that the property
is served by onsite wells and onsite septic systems; that the rezoning will
allow for other uses / commercial activities, i.e. a recording studio, bakery,
catering service, etc.; and that the rezoning of this property will allow the
church to further what they are doing with their ministries.**

**Public
Hearing
(continued)**

There were no public comments.

The Public Hearing and public record were closed.

**M 610 17
Adopt
Ordinance
No. 2535/
CZ 1833**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2535 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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.13 ACRES, MORE OR LESS” (Change of Zone No. 1833) filed on behalf of Eagles Nest Fellowship Church.

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 2105**

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 COMMERCIAL LANDSCAPING BUSINESS WITH OUTDOOR PARKING, STORAGE OF VEHICLES, EQUIPMENT AND OTHER ANCILLARY STORAGE RELATED TO THE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 25.156 ACRES, MORE OR LESS” (Conditional Use No. 2105) filed on behalf of Thomas R. Engel (Tax I.D. No. 235-30.00-103.09) (911 Address: 20132 Doddtown Road, Harbeson).

Janelle Cornwell, Planning and Zoning Director, presented the Change of Zone application.

The Planning and Zoning Commission held a Public Hearing on this application on October 26, 2017 at which time action was deferred; on November 16, 2017 the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated October 26 and November 16, 2017.)

An Exhibit Booklet was previously distributed to Council members.

Ms. Cornwell reported that, since the Public Hearing before the Planning and Zoning Commission, a letter has been received from Elizabeth Valezquos, Realtor with KW at the Beach, referencing the poor condition of Doddtown Road, and expressing concerns with the rezoning’s effect on property values.

**Public
Hearing/
CU 2105
(continued)**

Council found that Aaron Baker, Attorney, was present on behalf of the application along with Thomas Engel, Applicant. They discussed the subject property and the landscape business. They stated that the Applicant wishes to move the staging area for his landscaping business to this site; that employees will come to the site and pick up work vehicles and leave and afterwards, there would be very little activity; that the property has been cleaned up and improved since the previous owner left the site; that the prior Conditional Use sets a precedent; that a single family home with an attached garage and detached shed exists on the site; that the clean-up work created concerns with neighbors, however, that work will not be on-going; that he plans to use the existing pole buildings on the site; that vehicles entering the site will not have more than 2 axles; that he will limit the number of vehicles and the type of vehicles; that DeIDOT has determined that no Traffic Impact Study is required; that the Applicant provides a needed service; that the site is set back from the road; that he wishes to run the business out of 3 to 4 acres and not the entire site; that regarding the conditions of approval recommended by the Planning and Zoning Commission (Condition J), he would like to have two trash dumpsters, one for trash and one for recycling; that access would be from Doddtown Road; and that he could have 10 vehicles and 7 trailers on the site at one time.

Mr. Arlett referenced the comment that a Traffic Impact Study was not required and he read a letter into the record from DeIDOT dated September 26, 2016 in regard to a field observation of Doddtown Road. It was noted that this letter was submitted by the opposition. The Applicant stated that he is in agreement with the conclusions and recommendations in the letter; he noted that, most likely, this letter was addressing truck activity due to the clean-up of the site. It was also noted that Condition H recommended by the Planning and Zoning Commission addresses the number of axles permitted.

There were no public comments in support of the application.

Rick Berl, Attorney, was present on behalf of three families in opposition to the application. He referenced the prior use of the property and stated that this use is a proposed new use; that there are two pole buildings on the site and they cannot be used in their present configuration/condition; that the previously approved Conditional Use cannot be used as a precedent; that Doddtown Road is a narrow tar and chip road and a dangerous road; that the anticipated trips per day have been estimated at below 500 trips; that on Doddtown Road, any number of trips of 300 to 400 per day will be detrimental to that road; that according to the Comprehensive Plan, this property is considered rural low density and suggests that any business development be confined to uses addressing agricultural activities and single family dwellings; that the proposed use will not be conducive to the uses of the adjacent surrounding properties; that this area is rural and the County needs to preserve the rural areas; and that this use will adversely affect the quality of life of adjacent residents and will cause a depreciation

(continued) of their property values.

**Meeting Paused/
Power Outage** Due to a power outage at approximately 3:15 p.m., Mr. Vincent declared a pause in the meeting.

Although the power outage continued and the Council Chambers was running on a limited back-up power supply, the Council reconvened.

**M 611 17
Reconvene** A Motion was made by Mr. Cole, seconded by Mr. Arlett, to reconvene at 3:31 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public Hearing/
CU 2105
(continued)** Mr. Vincent announced that the Council would complete the Public Hearing on Conditional Use No. 2105 after which time if power was not restored, the Council would reschedule the last public hearing (on the Proposed Ordinance relating to Special Events) to another date/time.

Mr. Berl continued with his presentation. He referenced Code Section 171 relating to Conditional Uses and its requirement that a Conditional Use be reserved for essential and desirable uses for the general convenience and general welfare of the population of Sussex County and he stated that there is no evidence that the proposed use is essential or desirable for the general welfare of Sussex County.

Mr. Berl noted that the Applicant's Attorney has provided evidence of a Certificate of Occupancy for the pole buildings.

Chaz Lickman, Michael Schlitter, Diane Johnson, Zeljko Jeren, Mary Ann Hughes, and Patricia Beckley spoke in opposition to the application. They commented on the trucks/vehicles entering and leaving the subject property, including vehicles with 3 axles hauling in containers; commented on materials being delivered to the site; stated that there are other businesses in the area but they are micro-businesses; stated that they are opposed to dumpsters on the site; stated that the Applicant's road runs next to others' property lines; that landscaping will not help with noise or odors from diesel fuels; that huge tractor trailers have been seen leaving the site; that they question what the building in the back will be used for; that they question the well and the sewer system and whether or not they have been put there illegally; that they question whether or not mulch will be stored on the site; that the Applicant had let his pesticide license expire; that the proposed use will be a burden on Doddtown Road; that Council needs to stop the trend of allowing businesses and industrial uses in residential areas; that the Applicant does not live on Doddtown Road; that a complaint was made to the Planning and Zoning Department; that the use will add

**Public
Hearing/
CU 2105
(continued)**

more traffic to a small and very busy road; that the use will bring added trucks, cars, pollution, and noise; that the use will destroy the peace and safety of the neighborhood; that the use will start at 6:30 a.m.; that the use will devalue the properties in the area; that the Applicant owns various businesses; and that matters such as this one needs to be looked at collectively and how they will impact the area.

Mr. Berl and Mr. Zeljke presented video clips of what is going on at the application site and at the Applicant's other business site, i.e. trucks, equipment and materials.

In response to a question raised earlier by Council, Aaron Baker, Attorney for the Applicant, confirmed that there are no deed restrictions on the property.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 612 17
Defer
Action on
CU 2105**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to defer action for one week.

Motion Adopted: 5 Yeas.

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

**Power
Outage**

Due to the ongoing power outage, the Council discussed rescheduling the Public Hearing on the Proposed Ordinance relating to Special Events.

**M 613 17
Reschedule
Public
Hearing/
Proposed
Ordinance
Relating
to Special
Events**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to reschedule the Public Hearing on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, VI, X, XI, XIA, and XII BY AMENDING SECTIONS §§115-20, 115-22, 115-39, 115-69, 115-71, 115-77, 115-79, 115-83.2, 115-83.5, 115-85 and 115-87 TO AMEND AND CLARIFY CERTAIN SHORT-TERM "SPECIAL EVENTS" AS PERMITTED USES IN THE AR-1, GR, B-1, C-1, CR-1 and M DISTRICTS".

Motion Adopted: 4 Yeas, 1 Nay.

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

**M 614 17
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 4:10 p.m.

M 614 17
(continued)

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.}