

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 15, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 15, 2015, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Robert B. Arlett	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
Vincent Robertson	Assistant County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 453 15
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of August 18, 2015 were approved by consent.

**Corre-
spondence**

Mr. Robertson read the following correspondence:

**MILTON FIRE DEPARTMENT, MILTON, DELAWARE.
RE: Letter in appreciation of grant.**

**CAMP POSSIBILITIES, WILMINGTON, DELAWARE.
RE: Letter in appreciation of grant.**

**Public
Comments**

Public Comments

Paul Reiger questioned the County's definition of a temporary storage container versus a permanent storage container and he questioned the status of the County's dog control contract with First State Animal Center and SPCA.

Dan Kramer commented on the vote that was taken to establish a union at

(continued) the wastewater treatment facilities.

**Recognition/
Michael
Izzo** The Council recognized retiring County Engineer Michael A. Izzo for his 31 years of public service. Mr. Izzo has the distinction of being the longest-serving County Engineer at 19 years and will be memorialized in the renaming of an Engineering Department conference room in his honor.

**Public
Hearing/
D’Orazio
Exp. of the
DFSSD** A Public Hearing was held to consider extending the boundary of the Dagsboro-Frankford Sanitary Sewer District to include three parcels of land totaling .97 acres situated on the northwest side of County Road 54, Omar Road (lands of Nino L. D’Orazio). The County received a letter from the owner of the properties requesting annexation. The owner also owns the adjacent manufactured home community and has proposed connection access from the exiting lines. The parcels will be responsible for system connection charges of \$6,800.00 based on rates from July 1, 2015 through June 30, 2016.

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

**M 454 15
Adopt
R 013 15** A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt Resolution No. R 013 15 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE DAGSBORO FRANKFORD SANITARY SEWER DISTRICT (DFSSD) TO INCLUDE PARCELS SITUATED ON THE NORTHWEST SIDE OF COUNTY ROAD 54, OMAR ROAD, TAX MAP AND PARCEL NUMBERS 433-6.15-46.00, 47.00, & 48.00, AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yeas.

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

**DelDOT
Presenta-
tion** Delaware Department of Transportation Secretary Jennifer Cohan was in attendance to provide an overview of the Department’s plans and projects. Also present from DelDOT were Nicole Majeski, Deputy Secretary; Drew Boyce, Director of Planning; Shanté Hastings, Deputy Director of Transportation Solutions; and Jim Westoff, Communications Director. Secretary Cohan reported on the Transportation Trust Fund: funding sources, trust fund revenues, uses of funds, operating budget trend, DelDOT efficiencies and innovation, Delaware Transit redesign, capital budget, projects in progress, new projects in Sussex County in the Draft FY 17-22 CTP, and funding for FY16 – 22 projects in Sussex County. The Secretary reported that DelDOT will hold a Capital Transportation Program Hearing in each County. The Public Hearing in Sussex County will be held on September 24th beginning at 4:00 p.m. at DelDOT’s South District Administration Building. Deputy Secretary Majeski presented information on Transportation Improvement Districts: purpose, how they are created, how improvements are done, and benefits.

Constitution Week Proclamation **The Council presented a Proclamation entitled “A PROCLAMATION TO DECLARE SEPTEMBER 17-23 AS CONSTITUTION WEEK” to Ms. Donna Horvath of the Major Nathaniel Mitchell Chapter of the Daughters of the American Revolution.**

Sign Ordinance Workshop Details **In response to Council’s request to hold a sign workshop, Mr. Lawson announced that a Sign Ordinance Workshop will be held on Tuesday, September 29th, at 9:00 a.m. at Sussex County’s West Complex. The workshop attendees will include a select group of elected and appointed officials, staff and legal counsel; the group will include members of the County Council, Board of Adjustment, and Planning and Zoning Commission. Also invited will be representatives of Delaware Department of Transportation and David Hutt, Attorney. Mr. Lawson stated that the focus of the workshop is to gather feedback and direction as it relates to the way the current ordinance regulates signs for the purpose of rewriting the ordinance. The concept proposed is to develop a sign working group whereby members would work on the recommendations for the ordinance.**

Sussex County’s CTP 2017-2022 Request **Chip Guy, Director of Communications, presented the County’s 2017-2022 Capital Transportation Program (CTP) Request which will be submitted to DelDOT. This report highlights the County’s long-term infrastructure needs and requests for the State’s next capital budget which focuses on major investments such as highways, bridges, and intersection improvements throughout the State.**

Mr. Guy stated that, as done in past years, County Administration, along with input from Council and the public, has assembled this year’s request. Mr. Guy distributed copies of correspondence received from the public regarding their suggestions/ideas for improvements. These comments were used in developing this year’s draft CTP.

Mr. Guy reviewed the draft CTP Request, noting that this year’s request is much the same as last year. Sussex County’s transportation priorities are: SR 1 improvements; Delaware Coastal Airport, Park Avenue/US 9 Truck Route; east-west improvements (SR 24, SR 26, Routes 404/9); bicycling/walking trails; north-south highway improvements; local roads; intersections, signage and signalization; and alternative transportation.

Mr. Cole commented on pedestrian right of way laws and questioned DelDOT’s practice of taking over roads in subdivisions that have been brought up to State standards.

The Sussex County 2017-2022 Capital Transportation Program Request will be presented at a Public Hearing on September 24, 2015, from 4:00 to 7:00 p.m. at the DelDOT South District Office in Georgetown.

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

Adminis-
trator's
Report
(continued)

1. Delaware State Police Activity Report

Per the attached Delaware State Police activity report for July, there were 195 violent crime arrests with 137 clearances; 1,813 property crimes with 628 clearances; and 28,513 total traffic charges with 19,952 corresponding arrests. Of those traffic arrests, 565 were for DUI. Finally, there were 2,926 total vehicle crashes investigated in July. In total, there were 190 troopers assigned to Sussex County for the month of July.

2. Sussex County Emergency Operations Center Call Statistics – August 2015

Attached please find the call statistics for the Fire and Ambulance Callboard for August 2015. There were 17,980 total calls handled for the month of August. Of those 9-1-1 calls in August, 83 percent were made from wireless phones.

3. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet September 21st at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. Michael Erixson, Emergency Operations Coordinator, Delaware Division of Developmental Disabilities Services, will be speaking on "*Emergency Preparedness Efforts, Tips, and Best Practices in Developing Your Own Emergency Plans.*" The Conference Planning Subcommittee will also meet at 11:45 a.m. to continue planning for the annual conference scheduled for October 21st. A copy of the agenda for each meeting is attached.

4. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Ocean View Beach Club, effective August 18th; Lewes Crossing (aka Deep Valley Farm) – Offsite Sanitary Sewer – Route 9, effective August 20th; Forest Landing – Phase 3A, effective August 31st; Americana Bayside – Village C – Phase 1A, effective September 2nd; and Americana Bayside Knox Property, effective September 10th.

5. Albert Goepel and Joyce Lord

It is with sadness that we note the passing of County pensioners Albert Goepel on August 26th and Joyce Lord on September 4th. Mr. Goepel began his career with Sussex County in May 1995 and retired from the Environmental Services Wolfe Neck Plant as an Equipment

Administrator's Report (continued)

Operator III in May 2010 with 15 years of service. Ms. Lord began her career with Sussex County in October 1968 and retired from the Treasury Department as the Director of Treasury in December 2006 with 38 years of service. We would like to extend our condolences to the Goepel and Lord families.

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

Estates at Sea Chase/Bonding

Vince Robertson, Assistant County Attorney, presented for Council's consideration the release of Utica Mutual Fire Insurance Company under its Bond to Sussex County for the Estates at Sea Chase. The payment amount to Sussex County under the bond is \$55,000.00. This amount represents estimates obtained by both Utica and the County's Engineering Department for the outstanding work to be performed; the amount has been approved by the Estates of Sea Chase Condominium Association.

M 455 15 Release Bonding Company/ Estates of Sea Chase

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, the approval of the Estates of Sea Chase Condominium Association, Inc. and Legal Counsel, the release of Utica Mutual Insurance Company as surety under the Performance and Payment Bond Number SU3490434 upon receipt of the payment of \$55,000.00 is hereby approved.

Motion Adopted: 5 Yeas.

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

Dog Control Contract Status

Hal Godwin, Deputy County Administrator, reported on the status of the County's Dog Control Contract with First State Animal Center (FSAC) and SPCA and he advised that they have agreed to continue providing animal control services for Sussex County through the end of the year.

Medic 104 and Eastern District Supervisor Station

Bobby Schoonover, EMS Technical Services Manager, presented a proposal for the design of a new Medic 104 Station and Eastern District Supervisor Station on Plantation Road in Rehoboth Beach. The Council discussed the proposal, location, previous Medic Station designs, funding for the project, prevailing and non-prevailing wages, State paramedic funding, etc.

M 456 15 Medic 104 and Eastern District Supervisor Station/ Contract

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Emergency Medical Services Department, that the Sussex County Council authorizes its President to execute an Agreement with Pennoni Associates, Inc. of Milton, Delaware, to provide design services for the EMS Medic 104 and Eastern District Supervisor building on Plantation Road in Rehoboth Beach, Delaware, at a cost not to exceed \$99,900.00.

**M 456 15
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Proposed
Resolution/
Project
Planning
Advance/
Chapel
Green &
Oak Crest
Farms**

John Ashman, Director of Utility Planning, requested approval to submit a request to the Water Infrastructure Advisory Council for a Project Planning Advance to finance preliminary planning for service to Oak Crest Farms and Chapel Green. Mr. Ashman advised that a Resolution approved by the County Council is required in order for the Engineering Department to apply for the Project Planning Advance. Mr. Ashman reported that both of these communities have permanent limitations on their current treatment and disposal systems that mandate significant upgrades by 2021. Mr. Ashman also reported that during the Engineering Department's Goslee Creek Planning Study, it was determined that service to these communities was feasible. The Oak Crest Farms and Chapel Green communities have both contacted the County expressing interest in the County providing sewer service. Mr. Ashman advised that Whitman, Requardt & Associates has provided a cost estimate in the amount of \$46,400.00 to prepare the preliminary engineering report and environmental assessment. Project Planning Advances are available to assist municipalities in preparing Preliminary Engineering Report (PER) and Environmental Assessment (EA); upon completion, the County must submit a Notice of Intent for the project and apply for a SRF loan.

**M 457 15
Adopt
R 014 15**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Resolution No. R 014 15 entitled "TO SUBMIT A REQUEST FOR A PROJECT PLANNING ADVANCE FOR WASTEWATER PROJECT TO THE WATER INFRASTRUCTURE ADVISORY COUNCIL TO FINANCE PRELIMINARY PLANNING FOR SERVICE TO OAK CREST FARMS AND CHAPEL GREEN AND APPROVE A CONTRACT WITH WHITMAN REQUARDT & ASSOCIATES, LLP FOR THE COMPLETION OF THE STUDY".

Motion Adopted: 5 Yeas.

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

**Proposed
Resolution/
Asset
Manage-
ment
Incentive
Program**

John Ashman, Director of Utility Planning, reported that the Engineering Department has made application to the Wastewater Infrastructure Advisory Council for an Asset Management Incentive to finance the development and implementation of an Asset Management Plan for the County's wastewater facilities. In order to complete the application, a Resolution approved by the County Council is required. The Water Infrastructure Advisory Council offers up to \$100,000 No-Match Grants.

(continued) **Mr. Ashman explained that an Asset Management Plan will aid the County in establishing a current state of assets, level of service, critical assets, minimum life cycle costs, and long term funding plan.**

M 458 15
Adopt
R 015 15
A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Resolution No. R 015 15 entitled "TO SUBMIT A REQUEST FOR AN ASSET MANAGEMENT INCENTIVE FOR THE COUNTY'S WASTEWATER INFRASTRUCTURE TO THE WATER INFRASTRUCTURE ADVISORY COUNCIL TO FINANCE THE DEVELOPMENT AND IMPLEMENTATION OF AN ASSET MANAGEMENT PLAN FOR THE COUNTY'S WASTEWATER FACILITIES".

Motion Adopted: 5 Yeas.

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

**Inland Bays RWF/
Hydro-geologic Services for RIBS and Spray Irrigation**
Heather Sheridan, Director of Environmental Services, presented a proposal to hire Whitman, Requardt & Associates (WRA) to proceed with a Hydrogeologic Study for soils at the Inland Bays Regional Wastewater Facility. This study is required for the Department to expand disposal options per DNREC regulations. WRA will perform the hydrogeologic services and review treatment process requirements for Rapid Infiltration Basins (RIB) and Spray Irrigation. The cost for this scope of services will not exceed \$530,081.00.

M 459 15
**Retain Services of WR&A/
Hydro-geologic Services at Inland Bays RWF**
A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineering Department, the services of Whitman, Requardt and Associates, LLP shall be retained for Hydrogeologic Services for Rapid Infiltration Basins and Spray Irrigation at the Inland Bays Regional Wastewater Facility, in an amount not to exceed \$530,081.00, effective September 15, 2015.

Motion Adopted: 4 Yeas, 1 Nay.

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

**Public Comment Report/
CU 2014**
Lawrence Lank, Director of Planning and Zoning, commented on the status and record of Conditional Use No. 2014, filed on behalf of Jay Beach. Mr. Lank stated that, on May 19, 2015, the Council held a public hearing on this application. At the conclusion of the public hearing, Council requested additional information from DNREC, Sussex Conservation District, and any other appropriate agencies concerning the soils brought to the property. On that date, action was deferred for the purpose of receiving reports.

**Public
Comment
Report/
CU 2014
(continued)**

On August 11, 2015, Mr. Lank reported that a response was received from DNREC Site Investigation and Restoration Section, and from Jessica Watson, Program Manager for the Sussex Conservation District. On that date, it was noted that the public would be given the opportunity to comment on the information submitted; the public was given a 15 day period of time, until August 26, to submit written comments pertaining to the information submitted to Council.

Mr. Lank reported that, prior to the August 26th deadline, correspondence (2 emails) was received from Thomas and Laura Kucharik, and Matthew Cottrell; the correspondence was distributed to Council members.

**M 460 15
Close
Public
Record/
CU 2014**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to close the public record on Conditional Use No. 2014 filed on behalf of Jay Beach.

Motion Adopted: 5 Yeas.

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

**Public
Comment
Report/
CU 1770**

Lawrence Lank, Director of Planning and Zoning, commented on the status and record of Conditional Use No. 1770, filed on behalf of TD Rehoboth, LLC. Mr. Lank stated that, on June 2, 2015, the Council held a public hearing on this application. At the conclusion of the public hearing, Council requested that the record remain open for a period of 30 days for written comments or questions from Council and/or responses from agencies. On that date, action was deferred.

On August 18, 2015, Mr. Lank reported to Council that reports were received from DelDOT and the Department of Agriculture and that comments were also received from Vince Robertson, Assistant County Attorney, in response to questions raised by the Council and from Janelle Cornwell, Planning and Zoning Manager, relating to FAA regulations. On that date, it was noted that the public would be given a 15 day period of time, until the close of business on September 2, 2015, to submit written comments pertaining to the information.

Mr. Lank reported that, during the 15 day period, and prior to the September 2nd deadline, approximately 165 letters/emails were received; copies of the correspondence were distributed to the Council. Mr. Lank noted that, due to the volume of correspondence received, Council will have to decide which comments address specifically those comments addressed by DelDOT, the Department of Agriculture, Vincent Robertson, Esquire, and Janelle Cornwell, AICP. Vince Robertson, Assistant County Attorney, stated that it is important for Council members to remember that they can only consider and rely upon the comments that relate back to the four comments received.

M 461 15 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to close the**
Close **public record on Change of Zone No. 1770 filed on behalf of TD Rehoboth,**
Public **LLC.**

Record/
CZ 1770 **Motion Adopted: 5 Yeas.**

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

Suggestion **Mr. Arlett suggested that information be placed on the County's website**
for Website **regarding what it means when the public record is open/closed on an**
 application for the purpose of educating the public.

Old **Under Old Business, the Council considered the Proposed Ordinance**
Business/ **entitled "AN ORDINANCE TO ESTABLISH A MORATORIUM UPON**
Proposed **THE ACCEPTANCE OF SPECIAL USE EXCEPTION APPLICATIONS**
Ordinance/ **FOR OFF-PREMISES SIGNS".**

Moratorium **The Planning and Zoning Commission held a Public Hearing on the**
on Off- **Proposed Ordinance on August 13, 2015 at which time action was deferred.**
Premises **On August 27, 2015, the Commission recommended that the Proposed**
Signs **Ordinance be rejected.**

The County Council held a Public Hearing on the Proposed Ordinance on
August 18, 2015 at which time action was deferred.

M 462 15 **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, that the**
DENIED **Proposed Ordinance would only affect District Nos. 3 and 4.**

Motion Denied: 4 Nays, 1 Yea.

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

M 463 15 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt**
Adopt **Ordinance No. 2414 entitled "AN ORDINANCE TO ESTABLISH A**
Ordinance **MORATORIUM UPON THE ACCEPTANCE OF SPECIAL USE**
No. 2414 **EXCEPTION APPLICATIONS FOR OFF-PREMISES SIGNS".**

Motion Adopted: 4 Yeas, 1 Nay.

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

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

M 464 15 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 (\$500.00 each from Mr. Vincent's and Mr. Arlett's Councilmanic Grant Accounts) to Trap Pond Partners for a new storage building.**

Motion Adopted: 5 Yeas.

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

M 465 15 Councilmanic Grant **A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$1,000.00 from Mr. Wilson's Councilmanic Grant Account to the Georgetown Boys & Girls Club for program expenses.**

Motion Adopted: 5 Yeas.

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

M 466 15 Defer Action on Grant Request **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on the grant request from the Greater Georgetown Chamber of Commerce for the Wings & Wheels Festival.**

Motion Adopted: 4 Yeas, 1 Nay.

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

Introduction of Proposed Ordinances **Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.52 ACRES, MORE OR LESS" (Conditional Use No. 2033) filed on behalf of BDRP, LLC. (Tax I.D. No. 334-5.00-222.01) (911 Address: None Available).**

Mrs. Deaver 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 26,596 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1788) filed on behalf of Upesh Vyas (Tax Map I.D. No. 234-23.00-269.08) (911 Address: 24858 John J. Williams Highway, Millsboro).

Introduction of Proposed Ordinances (continued) Mr. Wilson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION COMPANY OFFICE, EQUIPMENT PARKING AND SHOP/YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.125 ACRES, MORE OR LESS" (Conditional Use No. 2032) filed on behalf of Guillermo Vasquez, t/a F&N Vasquez Concrete, LLC (Tax I.D. No. 330-14.16-5.03 and 5.00) (911 Address: 18578 Sherman Avenue, Lincoln).

Mrs. Deaver 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 MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.52 ACRES, MORE OR LESS" (Change of Zone No. 1787) filed on behalf of BDRP, LLC (Tax Map I.D. No. 334-5.00-222.01) (911 Address: None Available).

The Proposed Ordinances will be advertised for Public Hearing.

Council Members' Comments

Council Members' Comments

Mr. Arlett commented on his recent departmental tours, including the wastewater facilities, and he commented on the recently formed union.

**M 467 15
Go Into
Executive
Session**

At 12:36 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to recess and go into Executive Session for the purpose of discussing matters relating to personnel and land acquisition.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 12:40 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to personnel and land acquisition. The Executive Session concluded at 1:46 p.m.

**M 468 15
Reconvene**

At 1:48 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson, to come out of Executive and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

**M 468 15
(continued)**

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

E/S Action

There was no action on Executive Session items.

**Legal
Counsel**

Jamie Sharp, Assistant County Attorney, was present as Legal Counsel to the Council.

Rules

Mr. Sharp stated the Rules of Procedure for Public Hearings.

**Public
Hearing/
CU 2022**

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 NONPROFIT BOARDING HOME FOR FEMALE VETERANS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Conditional Use No. 2022) filed on behalf of Home of the Brave Foundation, Inc. (Tax Map I.D. 330-12.00-11.01) (911 Address – 6632 Sharps Road, Milford).

The Planning and Zoning Commission held a Public Hearing on this application on July 30, 2015 at which time action was deferred. On August 13, 2015, the Commission recommended that the application be approved with the following conditions:

- A. The female housing shall be in two separate buildings as identified on the Preliminary Site Plan.**
- B. As proposed by the applicants, the housing will be on a temporary or transitional basis. There shall not be any permanent residency on the site, except as may be necessary for support staff.**
- C. As a result of this approval, the maximum number of residents at the facility shall be 31 veterans including both male and female veterans.**
- D. The use shall comply with all Sussex County parking requirements.**
- E. The site shall comply with all requirements of the Sussex Conservation District.**
- F. The site shall comply with all requirements of the Delaware Department of Transportation (DelDOT).**
- G. 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 July 30 and August 13, 2015.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s public hearing and decision.

Mr. Lank distributed Exhibit Booklets which were previously provided by the Applicant.

**Public
Hearing/
CU 2022
(continued)**

The Council found that James Fuqua, Attorney, was present on behalf of the Home of the Brave Foundation along with Jessica Finan, Executive Director of the Board for the Home of the Brave Foundation. Mr. Fuqua gave a presentation on the application, provided information about their proposal to provide a transitional housing facility for female veterans, and presented reasons to support the application.

There were 15 individuals present who indicated their support of the application.

Brigadier General Ruth Irwin, Ret., Delaware Army National Guard, spoke in support of the application.

There were no public comments in opposition to the application.

The Public Hearing was closed.

**M 469 15
Adopt
Ordinance
No. 2415/
CU 2022**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to Adopt Ordinance No. 2415 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A NONPROFIT BOARDING HOME FOR FEMALE VETERANS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS" (Conditional Use No. 2022) filed on behalf of Home of the Brave Foundation, Inc., with the following conditions:

- A. The female housing shall be in two separate buildings as identified on the Preliminary Site Plan.**
- B. As proposed by the applicants, the housing will be on a temporary or transitional basis. There shall not be any permanent residency on the site, except as may be necessary for support staff.**
- C. As a result of this approval, the maximum number of residents at the facility shall be 31 veterans including both male and female veterans.**
- D. The use shall comply with all Sussex County parking requirements.**
- E. The site shall comply with all requirements of the Sussex Conservation District.**
- F. The site shall comply with all requirements of the Delaware Department of Transportation (DelDOT).**
- G. 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: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Recusal

Mr. Arlett recused himself from the Public Hearing on Conditional Use No. 2023.

**Public
Hearing/
CU 2023**

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 VETERINARIAN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.52 ACRES, MORE OR LESS” (Conditional Use No. 2023) filed on behalf of Frank Miranda. (Tax I.D. No. 533-18.00-12.00) (911 Address: 33053 Lighthouse Road, Selbyville).

The Planning and Zoning Commission held a Public Hearing on this application on July 30, 2015 at which time the Commission recommended that the application be approved with the following conditions:

- A. The use shall be a veterinarian’s office, in addition to the existing kennel operations. Retail sales ancillary to a veterinarian’s office shall be permitted.**
- B. The applicant shall comply with any DeIDOT entrance requirements associated with the veterinarian’s office.**
- C. The applicant shall utilize the existing sign for this use. No additional signage shall be permitted.**
- D. The parking shall comply with the Sussex County parking requirements for the uses as a kennel and a veterinarian’s office. The parking spaces shall be clearly marked on the site.**
- E. Any security lights shall be downward screened so that they do not shine on neighboring or adjacent roadways or properties.**
- F. All dumpsters associated with the use shall be screened from view of neighboring properties and roadways.**
- G. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated July 30, 2015.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s public hearing and decision.

The Council found that Frank Miranda was present on behalf of his application and he provided information on his proposal to open a veterinarian clinic on a site where a commercial dog kennel business currently exists. Mr. Miranda commented on the need for the proposed use and he stated reasons to support the application.

There was one person present who indicated support of the application.

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

**M 470 15
Adopt
Ordinance
No. 2416/
CU 2023**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2416 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A VETERINARIAN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.52 ACRES, MORE OR LESS” (Conditional Use No. 2023) filed on behalf of Frank Miranda, with the following conditions:

- A. The use shall be a veterinarian’s office, in addition to the existing kennel operations. Retail sales ancillary to a veterinarian’s office shall be permitted.**
- B. The applicant shall comply with any DelDOT entrance requirements associated with the veterinarian’s office.**
- C. The applicant shall utilize the existing sign for this use. No additional signage shall be permitted.**
- D. The parking shall comply with the Sussex County parking requirements for the uses as a kennel and a veterinarian’s office. The parking spaces shall be clearly marked on the site.**
- E. Any security lights shall be downward screened so that they do not shine on neighboring or adjacent roadways or properties.**
- F. All dumpsters associated with the use shall be screened from view of neighboring properties and roadways.**
- G. 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: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Arlett, Absent; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Mr. Arlett rejoined the meeting.

**Public
Hearing/
CU 2024**

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 COMMERCIAL LANDSCAPING MATERIALS, STORAGE AND SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.68 ACRES, MORE OR LESS” (Conditional Use No. 2024) filed on behalf of Stockley Materials, LLC” (Tax I.D. No. 334-5.00-192.00, 193.00, 194.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on July 30, 2015 at which time action was deferred. On August 13, 2015, the Commission recommended that the application be approved subject to the following conditions:

**Public
Hearing/
CU 2024
(continued)**

- A. The use shall be limited to commercial landscaping material storage and sales.**
- B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
- C. One lighted sign not to exceed 32 square feet per side shall be permitted.**
- D. The hours of operation shall be from 8:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. until 4:00 p.m. on Saturdays.**
- E. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. The applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. All materials shall be stored in bins on a concrete or hot mix base. All runoff from the bins shall be controlled so that it does not travel to neighboring or adjacent properties, or adversely affect groundwater on the site.**
- I. The site shall be fenced and gated. The gate at the entrance shall be offset from U.S. Route 9 to allow vehicles to still pull off of the U.S. Route 9 right-of-way if the gate is closed.**
- J. 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 July 30 and August 13, 2015.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's public hearing and decision.

Mr. Lank distributed Exhibit Booklets that were previously provided by the Applicant.

The Council found that Kenneth Adams, Manager for Stockley Materials, LLC was present with Dennis Schrader, Attorney; Mark Davidson of Pennoni Associates, Inc., and Robert Stickels, Vice President of Marketing for Stockley Materials, LLC. They gave a presentation on the application and provided information about the proposed use of the property for commercial landscaping materials, storage and sales. They discussed the fencing and gating of the property; retail sales; deliveries; other business uses in the vicinity; construction of a commercial entrance; the use of "white noise" for back-up noise on equipment; landscaping abutting the residential areas; hours of operation; and commercial and residential sales.

There was one person present who indicated support of the application.

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

M 471 15
Amend
Condition
A

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition A recommended by the Planning and Zoning Commission to read as follows:

The use shall be limited to landscaping material storage and sales.

Motion Adopted: 5 Yeas.

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

M 472 15
Amend
Condition
D

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition D recommended by the Planning and Zoning Commission to read as follows:

The hours of operation shall be from 7:00 a.m. to 7:00 p.m. Monday through Friday and 7:00 a.m. to 1:00 p.m. on Saturdays. No receiving of materials before 8:00 a.m. shall be permitted.

Motion Adopted: 4 Yeas, 1 Nay.

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

M 473 15
Amend
Conditions
Adding
New
Condition
J

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend the conditions recommended by the Planning and Zoning Commission by adding a new Condition J to read as follows:

Landscaping shall be required along the easterly and southerly property lines subject to the approval of the Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Nay.

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

M 474 15
Amend
Conditions/
Existing J
to Become
Condition K

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend the conditions recommended by the Planning and Zoning Commission by making the existing "J" to become Condition "K".

Motion Adopted: 5 Yeas.

**M 474 15
(continued)**

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

**M 475 15
Adopt
Ordinance
No. 2417/
CU 2024**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2417 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COMMERCIAL LANDSCAPING MATERIALS, STORAGE AND SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.68 ACRES, MORE OR LESS" (Conditional Use No. 2024) filed on behalf of Stockley Materials, LLC, with the following conditions, as amended:

- A. The use shall be limited to landscaping material storage and sales.**
- B. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
- C. One lighted sign not to exceed 32 square feet per side shall be permitted.**
- D. The hours of operation shall be from 7:00 a.m. to 7:00 p.m. Monday through Friday and 7:00 a.m. to 1:00 p.m. on Saturdays. No receiving of materials before 8:00 a.m. shall be permitted.**
- E. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. The applicant shall comply with all DeDOT requirements, including any entrance or roadway improvements.**
- G. All stormwater management facilities shall be subject to the review and approval of the Sussex Conservation District. The Final Site Plan shall include the approval of the Sussex Conservation District for the design and location of the stormwater management areas.**
- H. All materials shall be stored in bins on a concrete or hot mix base. All runoff from the bins shall be controlled so that it does not travel to neighboring or adjacent properties, or adversely affect groundwater on the site.**
- I. The site shall be fenced and gated. The gate at the entrance shall be offset from U.S. Route 9 to allow vehicles to still pull off of the U.S. Route 9 right-of-way if the gate is closed.**
- J. Landscaping shall be required along the easterly and southerly property lines subject to the approval of the Planning and Zoning Commission.**
- K. 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: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**M 476 15
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 3:13 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**