

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 20, 2016**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 20, 2016, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>Samuel R. Wilson, Jr.</b>	<b>Vice President</b>
<b>Robert B. Arlett</b>	<b>Councilman</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

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

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 455 16  
Approve  
Agenda**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, 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**

**Corre-  
spondence**

**Mr. Cole referenced correspondence he received regarding fees for paramedic services.**

**Minutes**

**The minutes of August 23 and 30, 2016 were approved by consent.**

**Public  
Comments**

**Public Comments**

**Paul Reiger commented on an email he received from the County in response to his submitted questions regarding fences in Sussex County. He also commented on tire piles, classification of a farm, orchards, and signs.**

**Dan Kramer commented on the Sign Ordinance Public Hearing scheduled on this date.**

**Jack Meylan commented on: (1) DNREC's aquaculture proposal and (2) transfer taxes.**

**Gretchen Klein commented on (1) the request to withdraw Change of Zone**

<b>Comments (continued)</b>	<b>No. 1800 filed on behalf of Sussex Real Estates Partners, LLC and (2) the subdivision approval process.</b>
<b>Procla- mation</b>	<b>A Proclamation entitled “A PROCLAMATION TO DECLARE SEPTEMBER 17-23 AS CONSTITUTION WEEK” was presented to members of the Major Nathaniel Mitchell Chapter of the Daughters of the American Revolution (DAR).</b>
<b>Wastewater Agreement</b>	<b>Mr. Lawson presented a Wastewater Agreement for the Council’s consideration.</b>
<b>M 456 16 Execute Wastewater Agreement/ Johnson’s Glade</b>	<b>A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 1030, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County and Evergreene Companies, LLC for wastewater facilities to be constructed in Johnson’s Glade, located in the Ocean View Expansion of the Bethany Beach Sanitary Sewer District.</b>  <b>Motion Adopted:     5 Yeas.</b>  <b>Vote by Roll Call:     Mrs. Deaver, Yea; Mr. Cole, Yea;                                  Mr. Arlett, Yea; Mr. Wilson, Yea;                                  Mr. Vincent, Yea</b>
<b>DelDOT 2018-2023 CTP Request</b>	<b>Chip Guy, Director of Communications, presented the County’s 2018-2023 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.</b>  <b>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.</b>  <b>Mr. Lawson reported that the County has been contacted by two municipalities (City of Lewes and Town of Dewey Beach) and interested stakeholders asking the County to submit specific items for improving transportation and specifically, sidewalks/pedestrian access. These requests were used in developing this year’s draft CTP.</b>  <b>Mr. Guy reviewed the draft CTP Request, noting that this year’s request is much the same as last year, with the exception of items removed due to completion of projects and new projects added including the addition of Scenic Byways. 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; scenic byways; local roads; intersections, signage and signalization; and alternative transportation.</b>

**CTP  
Request  
(continued)**

**The Sussex County 2018-2023 Capital Transportation Program Request will be presented at a Public Hearing on September 28, 2016 at the DelDOT South District Office in Georgetown.**

**Adminis-  
trator's  
Report**

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

**1. Sussex County Hosting 3<sup>rd</sup> Annual Homebuyer Fair**

The County, in partnership with the Delaware State Housing Authority, Sussex County Association of REALTORS®, First State Community Action Agency, and NCALL Research, will host the third annual Sussex County Homebuyer Fair from 9:00 a.m. to 1:00 p.m. on Saturday, September 24<sup>th</sup>. The event will be held inside the Carter Partnership Center at Delaware Technical & Community College, Owens Campus, in Georgetown.

The event is free and open to the public, and is designed to match potential homebuyers with housing counselors, lenders, and other resources that are available. Pre-registration is strongly encouraged so attendees can receive a free copy of their credit report. For more information, or to pre-register, please visit the County's website at [www.sussexcountyde.gov](http://www.sussexcountyde.gov) or call (302) 855-7779.

**2. Delaware State Police Activity Report**

Per the attached Delaware State Police activity report for June, there were 389 violent crime arrests with 294 clearances; 2,885 property crimes with 1,594 clearances; and 22,161 total traffic charges with 15,394 corresponding arrests. Of those traffic arrests, 529 were for DUI. Finally, there were 2,507 total vehicle crashes investigated in June. In total, there were 192 troopers assigned to Sussex County for the month of June.

**3. Sussex County Emergency Operations Center Call Statistics – August 2016**

Attached please find the call statistics for the Fire and Ambulance Callboard for August 2016. There were 10,913 total calls handled for the month of August. Of those 9-1-1 calls in August, 83 percent were made from wireless phones.

**4. Project Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheet, The Woods at Johnson's Corner a/k/a/ Fenwick Hamlet a/k/a Fox Haven – Phase 3 received Substantial Completion effective September 14<sup>th</sup>.

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

**Quarterly  
Pension  
Update  
and  
Recommen-  
dations**

**Mrs. Jennings presented information on the County's pension performance and proposed changes to the pension plan. The draft minutes of the August 18, 2016 Pension Committee meeting, and the Investment Performance Report as of June 30, 2016 were previously distributed to the Council.**

**Summary of the Pension Investment Analysis –**

- **Market value was \$73,994,465 as of June 30, 2016**
- **Second Quarter gain of \$1,365,399**
- **Second Quarter Return of 1.8%**

**Summary of OPEB Investment Analysis**

- **Market value was \$31,937,953 as of June 30, 2016**
- **Second Quarter gain of \$487,611**
- **Second Quarter return of 1.5%**

**Mrs. Jennings presented recommendations to improve performance: increase the equity allocation to 65% versus 60%. The County made this change last year with the OPEB Fund. Due to recent underperformance and higher administrative fee, move 10% of the fund from State of Delaware to existing better performing investments, which has resulted in better returns against their benchmark and have lower fees. Currently 60% of funds are in the State of Delaware account and it is recommended to lower that to 50%. The annual fee is \$381,000 for the pension fund; the proposed fee structure would lower that to \$326,000, resulting in a savings of approximately \$55,000 annually. Mrs. Jennings explained how the funds would be allocated among the other investments and stated that, in order to do this, a change is needed in the Investment Policy Statement. Mrs. Jennings also discussed the Committee's recommendation to lower the assumed rate of return and gave reasons for the recommendation to lower it to 7.25% versus the current 7.5%; she explained how lowering the assumed rate will require increasing the County's required contributions.**

**M 457 16  
Amend  
Investment  
Policy  
Statement/  
Pension  
Fund**

**A Motion was made by Mr. Arlett, seconded by Mr. Cole, based on the recommendation of the Pension Committee, amend the Investment Policy Statement to decrease the Delaware State Pool Target to 50%, increase the Equities Target to 36%, and decrease the Fixed Income Target to 14% with the County's overall intent to maintain the target allocation of 65% equities and 35% percent fixed income.**

**Motion Adopted: 5 Yeas.**

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

<b>M 458 16 Move Funds/ Pension Fund</b>	<p>A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the Sussex County Council, based on the recommendation of the Pension Committee, decrease the State of Delaware Pool 10%, decrease Wilmington Trust Fixed Income 2%, increase S&amp;P 500 Index Fund 6.5%, increase Vanguard Extended Market Index 1.5%, increase Vanguard Mid Cap Value 2%, and increase Vanguard Total International Stock Market 2%.</p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call:</b> Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
<b>M 459 16 Lower Assumed Rate of Return/ Pension Fund</b>	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that the Sussex County Council, based on the recommendation of the Pension Committee, Cheiron and Peirce Park Group, lower the assumed rate of return for both the Pension and OPEB Funds to 7.25 percent.</p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call:</b> Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
<b>Quarterly Pension Update (continued)</b>	<p>Mrs. Jennings presented pension calculation changes proposed by the Pension Committee, as follows: changing the annual salary calculation from 40 hours to 42 hours for 12-hour employees, and adding 5 years of service for the calculation of pension for 12 hour employees' cap from 25 to 30 and all other employees' cap increases from 30 to 35. Mrs. Jennings explained that a draft ordinance has been prepared and public hearings will be held by the Personnel Board and the County Council.</p>
<b>Fleet Procure- ment Update</b>	<p>Ron Verosko, Safety Manager, updated the Council on the planned introduction of new vehicles to the County's fleet as well as a timeline for fleet vehicle upgrade. He reported that there are 230 vehicles in the fleet and that 52 percent of the vehicles are over 10 years old. Mr. Verosko reported on the results of the Request for Proposals (RFP) that was issued for the purchase of new vehicles including vehicle selection considerations: five dealerships submitted bid packages covering 21 different base vehicles selections. Mr. Verosko reviewed an overview of the lowest bids and explained that the next steps in this process will be to finalize priorities of purchases with the County Administrator and Finance Director, and meet with area managers and finalize vehicle purchases in September.</p>
<b>Concord Road Expansion/ Blades SSD</b>	<p>Hans Medlarz, County Engineer, referenced Council's award of five (5) five year on-call contracts for miscellaneous services. Since the award, the County utilized the services of Davis, Bowen and Friedel (DBF) for the Concord Road Expansion Project by approving Amendment No. 1 to the Base Engineering Contract in the amount of \$64,984.62 on March 10, 2015.</p>

<b>Concord Road Expansion/Blades SSD (continued)</b>	<b>On this date, Mr. Medlarz presented a request for the approval of Contract Amendment No. 2 in the amount of \$5,700.00 to cover the pump station redesigns associated with the comments received from the Sussex Conservation District, DelDOT, and the adjacent property owner who granted an access easement. Mr. Medlarz noted that this is a USDA funded project.</b>
<b>M 460 16 Approve Amendment to Base Engineering Contract/Concord Road Expansion/Blades SSD</b>	<b>A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Amendment No. 2 to the Base Engineering Contract for the Miscellaneous Consultant Selection with Davis Bowen &amp; Friedel, Inc. be approved in the amount not to exceed \$5,700.00 covering the additional service for the Concord Road Expansion, contingent upon USDA approval.</b> <b>Motion Adopted: 5 Yeas.</b> <b>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</b>
<b>Pump Station 23 Modifications Project</b>	<b>Hans Medlarz, County Engineer, referenced the Council's award of the Pump Station No. 23 Modifications, Project No. 14-22, to Hopkins Construction, Inc. The project was declared substantially complete as of March 7, 2016. Mr. Medlarz presented a request for a Change Order in the credit amount of \$12,291.25 due to final adjustments and balancing of unit bid items.</b>
<b>M 561 16 Grant Substantial Completion/Balancing C/O for Pump Station 23 Modifications Project</b>	<b>A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Balancing Change Order for Contract No. 14-22, Pump Station No. 23 Modifications, be approved, which decreases the contract amount by \$12,291.25, for a new total amount of \$471,528.75, and that Substantial Completion be granted effective March 7, 2016 and any held retainage be released in accordance with contract documents</b> <b>Motion Adopted: 5 Yeas.</b> <b>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</b>
<b>SCRWF/Engineer of Record and Preliminary Engineering Report</b>	<b>Hans Medlarz, County Engineer, reported that the Engineering Department is currently in the permit renewal process for the South Coastal Regional Wastewater Facility (SCRWF) to include the new outfall permit with the City of Rehoboth. Further, the Department has been looking at what needs to be done at the facility for future planning purposes. Mr. Medlarz stated that the next step is a Preliminary Engineering Report to determine how to best invest in the facility over the next five years. The Engineer of Record, Stearns &amp; Wheler, LLC was</b>

<b>SCRWF (continued)</b>	<b>bought out by acquisition by GHD, Inc.; GHD, Inc. bought out all contracts with their purchase and the principals of Stearns &amp; Wheler, LLC are the same as for GHD, Inc. Mr. Medlarz recommended that the County reinstate the new company (GHD, Inc.) for the best continuity for review and design.</b>
<b>M 562 16 Approve Reaffirma- tion of Engineer of Record/ Authorize Negotiation of Amend- ment to Preliminary Engineering Report</b>	<p><b>A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Department, that Council approve the reaffirmation of GHD, Inc. of Bowie, Maryland, as Engineer of Record for the South Coastal Regional Wastewater Facility, Expansion No. 3, and to authorize the negotiation of Amendment No. 11 for the Preliminary Engineering Report.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</b></p>
<b>Agreement for Waste- water Services with Lewes Board of Public Works</b>	<p><b>Hans Medlarz, County Engineer, presented for Council's consideration an Agreement for Wastewater Services between Sussex County Council and the Lewes Board of Public Works for wastewater treatment and disposal. On July 19, 2016, the Council authorized agreement negotiations with other wastewater service providers for the utilization of seasonally available, existing wastewater treatment capacity. Mr. Medlarz discussed the terms and benefits of the Agreement.</b></p> <p><b>A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the Agreement for Wastewater Services with the Lewes Board of Public Works for the utilization of seasonally available, existing wastewater treatment capacity; to reimburse Board of Public Works for incurred engineering expenses; and to implement construction under the General Labor &amp; Equipment Contract, with prior approval of a change order by the Council.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</b></p>
<b>M 563 16 Approve Agreement for Waste- water Services with Lewes Board of Public Works</b>	
<b>Adminis- trative Office Building/ Stair Repairs Project</b>	<p><b>Hans Medlarz, County Engineer, presented the bid results for the Sussex County Administration Office Building Stair Repairs, Project No. 16-33, and recommended that the bid be awarded to the low bidder, BRS Consulting, Inc. in the amount of \$59,901.00 The Engineer's estimate was \$40,000.00. Mr. Medlarz stated that the low bid does exceed the Engineer's estimate; however, after investigation, it appears this amount accurately reflects the marketplace.</b></p>

**M 564 16**  
**Award**  
**Bid/**  
**Adminis-**  
**trative**  
**Office**  
**Building/**  
**Stair**  
**Repairs**  
**Project**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Contract 16-33, Sussex County Administrative Office Building Stair Repairs, be awarded to BRS Consulting, Inc. of Harrington, Delaware, at the base bid amount of \$59,921.00.

**Motion Adopted: 5 Yeas.**

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

**Request**  
**to Post**  
**Notices/**  
**Martin**  
**Expansion**  
**of the**  
**SCUSSD**

John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Martin Expansion of the Sussex County Unified Sanitary Sewer District (Millville Area). Mr. Ashman reported that this expansion was requested by the property owner, Paul J. and Winifred P. Martin. Mr. Ashman noted that this property is adjacent to the expansion of the Millville Sanitary Sewer District as part of the Route 26, Phase III expansion. He further noted that, at that time, this property owner was unaware of the project and did not request inclusion at that time. Contingent on Council's approval to post notices, a Public Hearing will be held on October 11, 2016.

**M 565 16**  
**Authorize**  
**Posting of**  
**Notices/**  
**Martin**  
**Expansion**  
**of the**  
**SCUSSD**

A Motion was made by Arlett, seconded by Mrs. Deaver, that the Engineering Department is authorized to prepare and post notices for the Martin Expansion of the Sussex County Unified Sanitary Sewer District (Millville Area) to include Parcel 134-11.00-164.01, as presented on September 20, 2016.

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

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

[Mr. Vincent was out of the room during the Motion and the Vote, and Mr. Wilson presided during that time.]

**Request to**  
**Withdraw**  
**Application/**  
**CZ 1800/**  
**Sussex**  
**Real Estate**  
**Partners,**  
**LLC**

Lawrence Lank, Director of Planning and Zoning, presented a request received on September 2, 2016 from James Fuqua, Esq., on behalf of Sussex Real Estate Partners, LLC, to withdraw the application known as Change of Zone No. 1800. In his letter, Mr. Fuqua states that "the Applicant has decided to withdraw its application for the MR/RPC rezoning and refile for a cluster subdivision utilizing the currently existing AR-1 permitted density". Mr. Lank noted that, due to the fact that the Public Hearing has been held on this application, the process requires County Council's approval of the withdrawal.



**M 566 16  
Allow  
Withdraw  
of CZ 1800**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to allow Change of Zone No. 1800 filed on behalf of Sussex Real Estate Partners, LLC to be withdrawn.**

**Motion Adopted: 5 Yeas.**

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

**Old  
Business/  
CU 2049**

**Under Old Business, the Council discussed Conditional Use No. 2049 filed on behalf of Blue Claw, LLC. The Planning and Zoning Commission held a Public Hearing on this application on May 26, 2016; on June 23, 2016, the Commission recommended that the application be denied. The County Council held a Public Hearing on this application on July 26, 2016 at which time action was deferred.**

**Mr. Vincent noted that, during the Public Hearing, questions were raised regarding the validity of the application as it relates to the name of the Applicant. It was further noted that Blue Claw, LLC conveyed this property approximately eight months prior to the application being filed. Mr. Moore stated that this creates an issue of standing. Mr. Moore also stated that the Council can vote on the merits of the application and any member of Council can decide to add an additional reason which would be “The Applicant, Blue Claw, LLC, is no longer in existence per the testimony given and does not have an ownership or contractual interest in the property and, thus, lacks standing to bring this application.”**

**M 567 16  
Adopt  
Proposed  
Ordinance/  
CU 2049**

**A Motion was made Mrs. Deaver, seconded by Mr. Wilson, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.5052 ACRES, MORE OR LESS” (Conditional Use No. 2049) filed on behalf of Blue Claw, LLC.**

**Motion Denied: 5 Nays.**

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

**Old  
Business/  
CU 2046**

**Under Old Business, the Council considered Change of Zone No. 1796 and Conditional Use No. 2046 filed on behalf of Lockwood Design and Construction, Inc. The Planning and Zoning held a Public Hearing on both applications on March 24, 2016; on April 14, 2016, the Commission recommended approval of both applications, with conditions attached to the Conditional Use approval. The County Council held a Public Hearing on**

**(continued) both applications on June 14, 2016 at which time action was deferred.**

**M 568 16**  
**Adopt**  
**Ordinance**  
**No. 2462/**  
**CZ 1796**

**A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt Ordinance No. 2462 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 35.45 ACRES, MORE OR LESS” (Change of Zone No. 1796) filed on behalf of Lockwood Design and Construction, Inc.**

**Motion Adopted: 5 Yeas.**

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

**Old**  
**Business/**  
**CU 2046**

**Council discussed Conditional Use No. 2046. Mr. Cole expressed concern about the density, the Environmentally Sensitive Developing Area designation, and traffic in the area. Mr. Cole suggested reducing the density to 4 units per acre as it is in a MR District.**

**M 569 16**  
**Amend**  
**P&Z Com-**  
**mission’s**  
**Recommen-**  
**dation**

**A Motion was made by Mr. Cole to amend the Planning and Zoning Commission’s proposed reasons and conditions of approval to reflect a maximum density of 4 units per acre.**

**The Motion died for the lack of a Second.**

**M 570 16**  
**Defer**  
**Action/**  
**CU 2046**

**A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to defer action for one week on Conditional Use No. 2046.**

**Motion Adopted: 5 Yeas.**

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

**Grant**  
**Requests**

**Mrs. Jennings presented grant requests for the Council’s consideration.**

**M 571 16**  
**Council-**  
**manic**  
**Grant**

**A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to give \$5,000.00 (\$3,000.00 from Mr. Wilson’s Councilmanic Grant Account and \$2,000.00 from Mr. Arlett’s Councilmanic Grant Account) to the Millsboro Historical Society for the upkeep of The Godwin School.**

**Motion Adopted: 5 Yeas.**

**M 571 16  
(continued)**

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

**M 572 16  
Council-  
manic  
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$2,000.00 from Mr. Vincent's Councilmanic Grant Account to Delaware Nanticoke Rotary Foundation to refurbish tennis courts at Seaford High School.

**Motion Adopted:** 5 Yeas.

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

**Introduction  
of Proposed  
Ordinances**

Mr. Arlett introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.22 ACRES, MORE OR LESS" (Change of Zone No. 1810) filed on behalf of Keith Properties, Inc. (Tax Map I.D. No. 533-19.00-753.00) (911 Address: 38016 Fenwick Shoals Blvd., Selbyville, DE).

Mr. Arlett introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HEAVY EQUIPMENT STORAGE, TRUCKING AND CONSTRUCTION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.983 ACRES, MORE OR LESS" (Conditional Use No. 2060) filed on behalf of Shelby Trucking and Construction Company, Inc. (Tax I.D. No. 533-17.00-160.00) (911 Address: 37268 Hudson Road, Selbyville, DE 19975).

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS" (Conditional Use No. 2061) filed on behalf of Kenneth A. Hughes (Tax I.D. No. 235-25.00-27.03) (911 Address: 17292 Shingle Point Road, Milton, DE).

The Proposed Ordinances will be advertised for Public Hearing.

**Council  
Members'  
Comments**

**Council Members' Comments**

Mr. Arlett congratulated Mr. Wilson on winning in the primary election

<b>Comments (continued)</b>	<p><b>campaign.</b></p> <p><b>Mr. Arlett reported that he gave two of his constituents a tour of County facilities and he thanked staff for their assistance.</b></p>
<b>M 573 16 Go Into Executive Session</b>	<p><b>At 12:11 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters relating to Job Applicants' Qualifications, Personnel and Land Acquisition.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</b></p>
<b>Executive Session</b>	<p><b>At 12:23 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 Job Applicants' Qualifications, Personnel and Land Acquisition. The Executive Session concluded at 1:22 p.m.</b></p>
<b>M 574 16 Reconvene Regular Session</b>	<p><b>At 1:36 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</b></p>
<b>M 575 16 Authorize Land Acquisition</b>	<p><b>A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council authorizes the County Administrator to negotiate and enter into a contract to purchase a parcel of land identified as Parcel K and proceed to closing on that contract.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</b></p>
<b>Rules</b>	<p><b>Mr. Moore read the Rules of Procedure for Public Hearings.</b></p>
<b>Public Hearing/ CU 2053</b>	<p><b>A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN HVAC BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.10 ACRES, MORE OR LESS" (Conditional Use No.</b></p>

**Public  
Hearing/  
CU 2053  
(continued)**

**2053) filed on behalf of Red Dog Plumbing and Heating c/o Ken Wood (Tax I.D. No. 533-10.00-14.00) (911 Address: 37058 Roxana Road, Selbyville).**

**The Planning and Zoning Commission held a Public Hearing on this application on August 11, 2016 at which time action was deferred. On August 25, 2016, the Commission recommended that the application be approved with conditions.**

**(See the minutes of the Planning and Zoning Commission dated August 11 and 25, 2016.)**

**Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and recommendation of approval.**

**The Council found that the Applicant was not present and for this reason, decided to continue the Public Hearing later in the meeting.**

**Public  
Hearing/  
CU 2054**

**A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE, EQUIPMENT STORAGE, AND PARKING FOR A CONSTRUCTION COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.0 ACRES, MORE OR LESS" (Conditional Use No. 2054) filed on behalf of UtiliSite, Inc. (Tax I.D. No. 234-6.00-99.01) (911 Address: 20721 Robinsonville Road, Lewes).**

**The Planning and Zoning Commission held a Public Hearing on this application on August 11, 2016 at which time action was deferred for further consideration. On August 25, 2016, the Commission recommended that the application be approved with eight conditions.**

**(See the minutes of the Planning and Zoning Commission dated August 11 and 25, 2016.)**

**Lawrence Lank, Director of Public Hearing, read a summary of the Commission's Public Hearing and recommendation of approval.**

**The Council found that Sharon Hart was present on behalf of the application. She stated that she started UtiliSite, Inc., a small construction company, in 2004; that she resides on the property; that they have approximately 10 employees, including herself; that some of the employees come to the site, park, and then leave in the utility trucks and dump trucks to the job sites; that it is rare that equipment comes back to the site; that the estimator parks at the site; that there is plenty of available parking; that there are other businesses located in the area; and that there are no plans to expand.**

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

**M 576 16  
Adopt  
Ordinance  
No. 2463/  
CU 2054**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Ordinance No. 2463 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE, EQUIPMENT STORAGE, AND PARKING FOR A CONSTRUCTION COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.0 ACRES, MORE OR LESS" (Conditional Use No. 2054) filed on behalf of UtiliSite, Inc., with the following conditions:

- A. The use shall be limited to an office, equipment storage and parking for a construction company.
- B. There shall be no retail sales from the property.
- C. As stated by the Applicant, the existing tree line shall be extended to screen the service and equipment yard area from view of neighboring properties and roadways.
- D. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.
- E. Any dumpsters on the site are to be screened from the view of neighboring properties or roadways.
- F. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.
- G. Signage shall not exceed 32 square feet on each side and may be lighted.
- H. 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**

**Public  
Hearing/  
Proposed  
Ordinance  
Relating  
to Signs  
(Second  
Version)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 ("ZONING"), ARTICLE XXI ("SIGNS").

**Synopsis:** This Ordinance revises the provisions of Chapter 115, Article XXI of the Sussex County Code related to the type, usage, and placement of signs in Sussex County. In addition, this Ordinance terminates the moratorium on the acceptance of any special use exception applications for off-premises signs.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on September 8, 2016 at which time action was deferred.

(See the minutes of the meeting of the Planning and Zoning Commission dated September 8, 2016.)

**Public  
Hearing/  
Proposed  
Ordinance  
Relating  
to Signs  
(Second  
Version)  
(continued)**

**Lawrence Lank, Director of Planning and Zoning, read a summary of the Planning and Zoning Commission's Public Hearing.**

**Mr. Lank reported that twenty emails have been received in opposition to the Proposed Ordinance and that the emails appeared to be mostly from realtors and real estate agents relating to real estate and development signs.**

**Jamie Sharp, Assistant County Attorney, submitted and discussed a revised version of the Proposed Sign Ordinance (Second Version Introduced) and reviewed areas of concern expressed about it.**

**Mr. Sharp showed a video of on premise Electronic Message Center signs depicting the varying degrees of animation, live action, streaming video, flashing, scrolling, static, etc.**

**Mr. Cole expressed concern about difficulty enforcing animated signs and stated that the ordinance should be clear as to what is and what is not permitted.**

**Public comments were heard.**

**David Hutt, Esq. was present on behalf of a sign company and developer group. Mr. Hutt distributed and reviewed a red-lined version of the second introduced ordinance. Mr. Hutt discussed having only one standard of illumination (foot candle standards), size limits, setbacks and separation distances, variances, and animation. Ben Phillips, sign company owner, participated in Mr. Hutt's presentation.**

**Paul Reiger commented on signs on farms, definition of a farm, and the number of signs permitted on an agricultural use.**

**Jason Dean, sign company owner, commented on signs that are too small and require changing slides. He stated that there are no facts, figures or data to back up comments made that animated signs are un-safe; that if the County is going to increase fees, they want something enforceable; and that he wants the record to remain open until the Planning and Zoning Commission makes a recommendation.**

**Lynn Rogers, sign company owner, commented that he agrees with the State's and DelDOT's sign regulations; that this Proposed Ordinance is getting away from that; and that no matter how perfect an ordinance is, variances will be needed.**

**Merritt Burke IV, CEO, Sussex County Association of Realtors, stated that SCAOR opposes the elimination of animation and that they support the separation of residential and non-residential.**

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

**Public  
Hearing  
(continued)**

**It was noted that the Proposed Sign Ordinance will be discussed by the Planning and Zoning Commission under Old Business on September 22, 2016.**

**It was also noted that the Ordinance relating to the sign moratorium established October 11 as the moratorium expiration date.**

**M 577 16  
Leave  
the Public  
Record  
Open on  
Proposed  
Sign  
Ordinance**

**A Motion was made by Mr. Wilson, seconded by Mr. Cole, to leave the public comment period open (on the Proposed Sign Ordinance) until the close of business on September 30th; that the public can make written comment on recommendations from the Planning and Zoning Commission (anything the Commission proposes to change); and that this information can be brought to Council at the first meeting in October.**

**Motion Adopted: 5 Yeas.**

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

**Continue  
Public  
Hearing/  
CU 2053**

**The Council continued the Public Hearing on “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN HVAC BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.10 ACRES, MORE OR LESS” (Conditional Use No. 2053) filed on behalf of Red Dog Plumbing and Heating c/o Ken Wood (Tax I.D. No. 533-10.00-14.00) (911 Address: 37058 Roxana Road, Selbyville) and found that the Applicant (Ken Wood) was in attendance.**

**Mr. Wood stated that he has improved the property; that he has been operating the business at the property since January 2016; that adequate parking exists; that vans go home overnight; that the existing, but widened, entrance is used; and that existing structures are used.**

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

**M 578 16  
Adopt  
Ordinance  
No. 2464/  
CU 2053**

**A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to Adopt Ordinance No. 2464 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN HVAC BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.10 ACRES, MORE OR LESS” (Conditional Use No. 2053) filed on behalf of Red Dog Plumbing and Heating c/o Ken Wood, with the following conditions:**

**A. The use shall be limited to an HVAC business located on the same parcel as the Applicant’s home.**



**M 578 16**  
**Adopt**  
**Ordinance**  
**No. 2464/**  
**CU 2053**  
**(continued)**

- B. There shall be no retail sales from the property.**
- C. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- D. All dumpsters on the site are to be screened from the view of neighboring properties and roadways.**
- E. There shall not be any outside storage of any HVAC equipment or materials associated with the use.**
- F. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- G. Signage shall not exceed 32 square feet on each side and shall not be lighted.**
- H. 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 579 16**  
**Adjourn**

**A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, to adjourn at 4:27 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**

*{An audio recording of this meeting is available on the County's website.}*