

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 17, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 17, 2024, at 1:00 p.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore	County Attorney

Call to Order	The Invocation and Pledge of Allegiance were led by Mr. Vincent. Mr. Vincent called the meeting to order.
M 482 24 Approve Agenda	A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to approve the agenda as presented. Motion Adopted: 5 Yeas Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
Minutes	The minutes of August 27, 2024, were approved by consent.
Correspondence	Mr. Moore reported that correspondence was received from Make-A-Wish and CHEER thanking Council for their donation.
Public Comments	Public comments were heard. Ms. Jill Hicks spoke about the Perimeter Buffer Ordinance. Ms. Teresa Muschiath spoke about issues with the Anthem development. Ms. Maria Maksymowych spoke about issues with the Anthem development. Mr. John Marley spoke about issues with the Anthem development. Mr. Mark Matthews spoke about issues with the Anthem development.
Administrator's Report	Mr. Lawson read the following information for his Administrator's Report: 1. <u>Projects Receiving Substantial Completion</u>

**Adminis-
trator's
Report
(continued)**

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Peninsula – Phase 11 – Still Waters – Phase 2 (Construction Record) effective August 21st; The Estuary – Phase 4 – Pump Station effective August 27th and Osprey Point – Phase 1B (Construction Record) effective – August 31, 2024.

2. Delaware Animal Services Performance Report – Quarter Two 2024

The Delaware Animal Services Performance Report for the second quarter of 2024 is attached listing the total of number of calls for service by location as well as a breakdown of the total types of calls in Sussex County. In total there were 1,689 calls for service in the second quarter of 2024.

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

**Third
Quarter
Employee
Recognition
Awards**

Karen Brewington, Human Resources Director presented the Third Quarter Employee Recognition Awards. She reported that there were 37 submissions, and three winners were selected for this quarter. The winners were Marvin Roberts from Engineering, Lauren DeVore from Planning & Zoning and Christopher Volpe from GIS.

**Lochwood
Sewer/CO 2**

Hans Medlarz, Project Engineer presented change order no. 2 for Lochwood Sewer Expansion for Council's consideration.

**M 483 24
Approve CO
No. 2/
Lochwood
Sewer**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson that be it moved based upon the recommendation of the Sussex County Engineering Department that change order no. 2 for contract S22-07, Lochwood Community Area Expansion Construction contract A be approved increasing the contract amount by \$8,907.18 subject to USDA concurrence.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Artesian
Addendum 8**

Hans Medlarz, Project Engineer presented addendum no. 8 for Artesian bulk wastewater agreement for Council's consideration.

**M 484 24
Approve
Artesian
Bulk
Wastewater**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved based upon the recommendation of the Sussex County Engineering and Finance Departments that the Sussex County Council approves Addendum No. 8 to the Bulk Wastewater Services Agreement between Sussex County and Artesian Wastewater Management, Inc. as presented.

**Addendum
No. 8** **Motion Adopted: 5 Yeas**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Permission to Prepare & Post Notices/ Woods at Angola Beach **John Ashman, Director of Utility Planning & Design Review presented a permission to prepare and post notices for Woods at Angola Beach Annexation into SCUSSD. The Engineering Department received a request from Mill Brook Engineering, LLC on behalf of their client, Hometown Angola Land, LLC owners of parcel 234-12.00-7.01, adjacent to the existing Angola Neck Area of SCUSSD. The request includes undeveloped land abutting the existing Angola Beach & Estates with 90 lots proposed for this site. The project will be responsible for System Connection Charges of \$7,700 per EDU based on current rates.**

M 485 24 **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it moved by Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for the Woods at Angola Beach expansion of the Sussex County Unified Sanitary Sewer District to include parcel 234-12.00-7.01 as presented.**

**Approve
Permission to Prepare & Post Notices/ Woods at Angola Beach**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Permission to Prepare & Post Notices/ Leeward Chase II **John Ashman, Director of Utility Planning & Design Review presented a permission to prepare and post notices for Leeward Chase II Annexation into SCUSSD. The Engineering Department received a request from Solutions IPEM on behalf of the owners of parcels 135-15.00-96.00 & 97.00, adjacent to the Leeward Chase project. The parcels contain an existing liquor store and an existing church. The parcels will be responsible for System Connection Charges of \$7,700 per EDU based on current rates.**

M 486 24 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, be it moved by the Sussex County Council that the Sussex County Engineering Department is authorized to prepare and post notices for the Leeward Chase II expansion of the Sussex County Unified Sanitary Sewer District to include parcels 135-15.00-96.00 & 97.00 as presented.**

**Approve
Permission to Prepare & Post Notices/ Leeward Chase II**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Grant Requests	Mrs. Jennings presented grant requests for Council's consideration.
M 487 24	A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mrs. Green's Councilmanic Grant Account) to the Friends of Prime Hook National Wildlife Refuge, Inc. for their Summer Intern program for nesting shorebirds.
Friends of Prime Hook National Wildlife	Motion Adopted: 5 Yeas
	Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
M 488 24	A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to give \$1,000 (\$1,000 from Mr. Vincent's Councilmanic Grant Account) to Nanticoke River Arts Council for operating expenses.
Nanticoke River Arts Council	Motion Adopted: 5 Yeas
	Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea
Proposed Ordinance Introduction	Mrs. Green introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS" filed on behalf of Connie & Thomas W. Lynch, III.
	Mrs. Green introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL STORE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.82 ACRES, MORE OR LESS" filed on behalf of Michael & Mary Rawl.
	Mrs. Green introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL BUSINESS TO SERVICE GAS STATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.29 ACRES, MORE OR LESS" filed on behalf of Dean Vincent JBM Petroleum Services, LLC.

**Proposed
Ordinance
Introduction
(continued)**

Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 309.59 ACRES, MORE OR LESS” filed on behalf of H&K Group, LLC.

Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR INDOOR STORAGE OF WATERCRAFT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.26 ACRES, MORE OR LESS” filed on behalf of Holdren, LLC.

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE SUSSEX COUNTY SEWER TIER MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCELS 433-11.00-17.00 & 17.01.

The Proposed Ordinances will be advertised for a public hearing.

CC

Comments

There were no Council Member comments.

**M 489 24
Go Into
Executive
Session**

At 1:37 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to recess the Regular Session and go into Executive Session to discuss matters relating to land acquisition.

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**Executive
Session**

At 1:40 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters related to land acquisition. The Executive Session concluded at 1:51 p.m.

**M 490 24
Reconvene**

At 1:53 p.m., a Motion was made by Mr. Hudson., seconded by Mr. Rieley to come out of Executive Session back into Regular Session.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

M 491 24
E/S Action/
Parcel
2023-L

A Motion was made by Mr. Hudson, seconded by Mr. Rieley to allow the County Administrator to negotiate, enter into a contract and go to closing on a parcel identified as 2023-L.

Motion Adopted: 4 Yeas, 1 Absent

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Absent;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Public
Hearing/
North
Ellendale
Sewer Flow
Diversion

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$9,236,846 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE NORTH ELLENDALE SEWER FLOW DIVERSION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Hans Medlarz, Project Engineer provided an overview and update for the project.

There were no public comments.

The Public Hearing and public record were closed.

M 492 24
Adopt
Ordinance
No. 3044/
North
Ellendale
Sewer Flow
Diversion

A Motion was made by Mrs. Green, seconded Mr. Hudson to Adopt Ordinance No. 3044 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$9,236,846 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE NORTH ELLENDALE SEWER FLOW DIVERSION PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Motion Adopted: 5 Yeas

Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea

Rules

Mr. Moore read the rules and procedures for Public Hearings.

Public
Hearing/
CZ2005

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.58 ACRES, MORE OR LESS” (property lying on the southwest corner of the intersection of John J. Williams Highway [Rt. 24] and Warrington Road [Rt. 1D]) (911

**Public
Hearing/
CZ2005
(continued)**

Address: 19101 John J. Williams Highway, Rehoboth) (Tax Map Parcel: 334-12.00-115.00) filed on behalf of Cherner Development Group.

The Planning & Zoning Commission held a Public Hearing on the application on August 7, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 9 reasons as outlined.

The Council found that Mr. Tom Carney, Esq. was present on behalf of the Applicant, Cherner Development Group; ; that it is a 1.58 acre tract of land currently zoned AR-1 that the Applicant seeks to rezone to C-3; that the rezoning is in keeping with the Sussex County Comprehensive Plan as the Future Land Use Map shows this as a Commercial Area; that the Commercial Area defines a property consisting of retail and service businesses along major arterial roads; that the appropriate uses include car washes which is being sought for this property; that they are seeking to establish a second location of Waves Car Wash; that the C-3 is a permitted zoning classification as well as proposed uses including a carwash; that the C-3 zoning classification is generally intended for larger auto oriented retail and service businesses along major arterial roads that serve local and regional residents as well as the traveling public; that the proposed rezoning is in keeping with the vicinity of the general area; that the area around it includes medical facilities, banks, hotels, restaurants, and shopping centers and this use would be in keeping with the surrounding area.

There were no public comments.

The Public Hearing and public record were closed.

**M 493 24
Adopt
Ordinance
No. 3045/
CZ2005**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to Adopt Ordinance No. 3045 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.58 ACRES, MORE OR LESS” for reasons given by the Planning & Zoning Commission as follows:

- 1. C-3 Heavy Commercial Zoning is designed to allow auto-oriented retail and service businesses that serve local and regional residents. Permitted Uses include retail uses, restaurants, offices and vehicle service stations.**
- 2. The site is located at the intersection of Route 24 and Warrington Road, which is opposite from Plantation Road. Route 24 has been designated as a “Major Collector” by DelDOT. The intersection is also in close proximity to the Route One commercial corridor, and Route 24 has developed with other commercial uses between Route One and**

**M 493 24
Adopt
Ordinance
No. 3045/
CZ2005
(continued)**

this intersection. The intersection is heavily traveled, and it is an appropriate location for auto-oriented retail and service businesses. It is an appropriate location for C-3 zoning.

- 3. This property has been used residentially for several decades. However, with the growth of this intersection, the residential use of the property is no longer practical. Instead, this corner is better suited for commercial uses.**
- 4. The site will be served by central water and sewer.**
- 5. The property is located in the Coastal Area according to the current Sussex County Land Use Plan. This proposed C-3 commercial zoning is appropriate in this Area according to the Plan.**
- 6. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity and welfare of the County.**
- 7. Any future use of the property will be subject to Site Plan review by the Sussex County Planning and Zoning Commission.**
- 8. No parties appeared in opposition to this Application.**
- 9. For all of these reasons, it is appropriate to recommend approval of this Change in Zone from AR-1 to C-3 at this location.**

Motion Adopted: 4 Yeas, 1 Nay

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Nay;
Mr. Vincent, Yea**

**Public
Hearing/
CU2539**

A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DIESEL MECHANIC, PARTS SHOP, AND TRUCK PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.46 ACRES, MORE OR LESS” (property lying on the northeast side of DuPont Boulevard [Rt. 113], approximately 0.42 mile south of East Redden Road [S.C.R. 565]) (911 Address: 18293 & 18313 DuPont Boulevard, Georgetown) (Tax Map Parcel: 135-6.00-4.00) filed on behalf of BCB Management, LLC.

The Planning & Zoning Commission held a Public Hearing on the application on August 7, 2024. At the meeting of August 21, 2024, the Planning & Zoning Commission recommended approval of the application for the 4 reasons stated and subject to the 13 recommended conditions as outlined.

The Council found that Mr. Tim Willard, Esq. was present on behalf of the Applicant, BCB Management, LLC, that also present are Mr. Mohan and Ms. Sandra Singh the owners of BCB Management, LLC. Mr. Willard stated

**Public
Hearing/
CU2539
(continued)**

that the application to operate a diesel parts and repair store in addition to having chicken feed trucks stored on the property; that they are going to service trucks and diesel; that there would be parking on the side for the trucks; that there are approximately 12 trucks on the road with different shift; that there is a house in the front that they are going to keep; that the plan is for their manager to live in the house; that they agree with Planning & Zoning recommendations; that there was a discussion about waste and fuel tanks during the P&Z meeting; that they located where they will be on the site plan that was shown; that there were photographs submitted to the Commission that were included in the packet; that there are many businesses in the area that were discussed; that there is a good amount of commercial activity in the area; that industrial and agribusiness uses that support or depend on agriculture should be permitted; that the property is also located on a major arterial road; that the use is a semi-public use and will not affect the use of neighboring properties; that it serves a need in Sussex County; that the traffic impact is low

Mr. Mohan Singh stated that they are looking to grow their business; that they are providing a jobs and benefits; that they are not looking to be a huge organization for profit; that he has a military background and has done some community service; that the business runs feed trucks for Perdue and Mountaire.

There were no public comments.

The Public Hearing and public record were closed.

**M 494 24
Adopt
Ordinance
No. 3046/
CU2539**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 3046 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DIESEL MECHANIC, PARTS SHOP, AND TRUCK PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.46 ACRES, MORE OR LESS" for the reasons and conditions given by the Planning & Zoning Commission as follows:

1. The proposed facility is located upon a 5.46-acre tract, and with the conditions and stipulations placed upon it, it will not have an adverse impact on the neighboring properties or community. Also, it will not negatively impact traffic or nearby roadways.
2. The property is situated along Route 113 near the intersection with East Redden Road. There are a variety of other business and commercial uses nearby and this use will be consistent with those other uses.
3. The Applicant has stated that the truck parking area is largely going to be utilized by trucks involved in poultry farming operations. This

**M 494 24
Adopt
Ordinance
No. 3046/
CU2539
(continued)**

use will support agricultural operations and the agricultural economy of Sussex County.

- 4. No parties appeared in opposition to this application.**
- 5. This recommendation for approval is subject to the following conditions and stipulations:**
 - a. The use shall be limited to a diesel mechanic and parts shop with truck parking.**
 - b. One lighted sign shall be permitted. It shall not exceed 32 square feet in size on each side.**
 - c. Security lighting shall be shielded and downward screened and shall be directed away from neighboring properties and roadways.**
 - d. Any dumpsters shall be screened from the view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.**
 - e. No junked, unregistered or permanently inoperable vehicles, trucks or trailers shall be stored on the site. No equipment or materials shall be stored outside either.**
 - f. There shall be no more than 12 trucks or trailers parked on the site at any time and no more than 9 customer vehicles awaiting repair and parked outside on the property at any one time.**
 - g. There shall not be any parking in the front yard setback.**
 - h. The parking and repair areas shall be shown on the Final Site Plan and clearly marked on the site itself. Vehicles, trucks and trailers shall only be parked and worked on within these designated areas.**
 - i. All oils and other fluids shall be properly stored indoors in appropriate containers. The applicant shall also comply with all state and federal requirements for the disposal of these fluids.**
 - j. The site shall be subject to all DelDOT entrance and roadway requirements.**
 - k. Hours of operation for the repair and parts shop shall be from 7:00 a.m. until 5:00 p.m., Monday through Friday, and between 8:00 a.m. and 2:00 p.m. on Saturdays. There shall not be any Sunday hours of operation.**
 - l. Any violation of these conditions may be grounds for termination of this conditional use.**
 - m. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

**M 495 24
Adjourn**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to adjourn
at 2:23 p.m.**

Motion Adopted: 5 Yeas

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Tracy N. Torbert
Clerk of the Council**

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