

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 31, 2023

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 31, 2023, at 10:00 a.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, Jr.	County Attorney

Call to Order	The Invocation and Pledge of Allegiance were led by Mr. Vincent. Mr. Vincent called the meeting to order.
M 049 23 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 from January 24, 2023, were approved by consensus.
Corre- spondence	There was no correspondence.
Public Comments	Public comments were heard, and the following people spoke: Mr. Keavney Watson spoke about a grant that he is trying to apply for through Sussex County.
M 050 23 Approve Consent Agenda	A Motion was made by Mr. Hudson, seconded by Mr. Rieley to approve the following item under the Consent Agenda: Use of Existing Sewer Infrastructure Agreement, IUA 1161 The Knoll, Holt's Landing Area Motion Adopted: 5 Yeas Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;

**Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Yea**

Caroling on the Circle Recognition Mr. Lawson recognized those that participated in the Caroling on the Circle Food Drive effort and thanked everyone that volunteered and contributed.

Mr. Vincent recognized Representative Grey and Senator Hocker who were present.

MOU/ DNREC/ White Creek Mr. Lawson reviewed a Memorandum of Understanding between the County and the Department of Natural Resources and Environmental Control related to the White Creek dredging project. Mr. Lawson reported that the MOU has been reviewed and approved to form by both the County legal team and the DNREC Attorney General.

Mr. Lawson explained that the origins of this initiative began in 2019 when the County Council supported legislation to establish an accommodation tax in Sussex County for hotels, motels, and tourist homes. That legislation, House Bill 228, was approved by the General Assembly in June 2019 and signed into law in July 2019.

The funding from the accommodation tax is earmarked for beach nourishment, waterway dredging, economic development, tourism programs, recreational activities, water quality projects, and flood control projects. Thus far, the County has collected \$1.9M in funding.

The County Council agreed that waterway dredging should be its to priority for the initial use of this funding. In order to facilitate a dredging project, the most prudent and efficient approach is to partner with DNREC because the department already administers dredging projects throughout the State. The referenced MOU established the partnership with DNREC and spells out each party's roles and responsibilities for the pending White Creek dredging project only.

In particular, the MOU defines specific terms; outlines the project's scope; and the project's cost. Specifically, the project cost is \$4,685,000.00 and the County's contribution is \$1,000,000.00.

Mr. Lawson reported that the project will improve navigability in White Creek and a portion of Assawoman Canal. Approximately 55,000 to 75,000 cubic yards of materials will be removed. Dredged sediments will be used to restore an area of highly degraded coastal salt marsh at the Assawoman Wildlife Area (Muddy Neck).

Mr. Lawson reviewed the project timeline. Currently in progress are pipelines, personnel, pumps, and dredges are being mobilized to the site. Dredging is expected to begin approximately February 3rd. Completion of the project is required by March 31 due to habitat/wildlife restrictions. DNREC will monitor the restored wetland area through 2028, as a condition

of the permit.

M 051 23
Approve
MOU/
DNREC/
White Creek
dredging

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it moved that the Sussex County Council approves the Memorandum of Understanding with the Delaware Department of Natural Resources and Environmental Control related to the White Creek Dredging project as presented and the County's contribution of \$1M to this same project as specified in the terms of the MOU.

Motion Adopted: 5 Yeas

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

MOU/
Bay Beach
Association

Mr. Lawson discussed a Memorandum of Understanding between the County and the Bay Beach Association related to the federal Water Resources Department Act Implementation.

Mr. Lawson reminded Council that BBA is an organization representing the Delaware Bay coastal communities in Kent and Sussex counties. BBA representatives made a presentation to the County Council during its January 10th meeting.

The BBA was formed to advocate on behalf of its members to preserve and protect the unique character of the Delaware Bay shoreline by focusing on the preservation of the coastal ecosystems that are at risk due to sea level rise, more frequent coastal storms, wildfires, and saltwater intrusion.

The BBA is seeking the counties' assistance in hiring a consultant to lead their advocacy work with a specific focus on the newly passed WRDA legislation. The WRDA bill contains specific initiatives designed to assist the Delaware coastal regions. BBA is seeking \$30,000 per county; Kent County Levy Court has voted to approve their contribution.

The MOU establishes the roles and responsibilities of each party, including the deliverables required by BBA. Sussex County will pay its contribution via the Greater Lewes Foundation, which will manage the payments to BBA. The County will pay on a monthly basis and can terminate the agreement at any time and cease payments. The term of the BBA MOU is for one year and any extension past the twelfth month will require County Council approval.

M 052 23
Approve
MOU/BBA

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it moved that the Sussex County Council approves the Memorandum of Understanding with Bay Beach Association related to the implementation of the WRDA Act of 2022 as presented and the County's contribution of \$30,000 for the same initiative as specified in the terms of the MOU.

Motion Adopted: 5 Yeas

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

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for December 2022 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 191 troopers assigned to Sussex County for the month of December.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Marlin Chase (FKA Marlin Run, Oceanside Vista Subdivision, The Preserve at Cedar Pines) received Substantial Completion January 20th.

3. Public Integrity Commission Workshop – February 2nd

The County Council will host a workshop on the State of Delaware's Code of Ethics. The workshop will take place on Thursday, February 2nd at 1:00 p.m. at Delaware Tech Georgetown Campus. During that time, members of Council and County staff will hear from Deborah J. Moreau, Esq., Counsel for the Public Integrity Commission.

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

**Public
Hearing/Salt
Air
Annexation
Into
SCUSSD**

A Public Hearing was held on the Proposed Salt Air Expansion of the Sussex County Unified Sanitary Sewer District (Millville Area). John Ashman, Director of Utility Planning and Design Review reported that County Council approved permission to prepare and post notices for the public hearing on December 13, 2022. The parcels are located in the Tier 2 Area for sewer service however, they are not contiguous to the existing boundary. The owner/developer has entered into agreements with the intervening property owners and the department has received letters from those parcels requesting their parcels be annexed, based upon the agreed upon conditions with the developer. The only parcel a request letter was not received from was parcel 104.00. Therefore, it is being proposed to only include the front section encompassing the driveway at this time to maintain contiguous path to the existing sewer district boundary. The department

**Public
Hearing/Salt
Air
Annexation
Into
SCUSSD
(continued)**

has requested a letter from the developer to provide a timeline that the existing intervening parcels will be served. They have provided that letter and it states that all parcels will be served by June 30, 2025, regardless of the status of their project. The project will be responsible for System Connection Charges of \$6,600 per EDU based on current rates and subject to an Infrastructure Use Agreement. The Engineering Department advertised January 18 and 25, 2023 and on the County webpage. The area was posted on January 10, 2023. To date, there has been correspondence from one resident in the neighboring community of Edgewood Manor. The property owner expressed interest in being included in the annexation. The County will not be installing infrastructure that would serve this community, however, when the plans were reviewed for the Salt Air project, a connection to that community will be attempted to be provided in the rear.

There were no public comments.

The Public Hearing and public record were closed.

**M 053 23
Adopt
Resolution
R 005 23/
Salt Air**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Resolution No. R 005 23 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MILLVILLE AREA, TO INCLUDE THE PROPOSED SALT AIR SUBDIVISION AND SEVERAL ADJOINING PARCELS LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE".

Motion Adopted: 5 Yeas

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

Mr. Ashman clarified an item under the mass annexation request that he presented last week. He reported that parcel 134-7.00-118.00 requested their annexation fee be refunded. Therefore, that parcel will not be changed on the maps.

**East
Bridgeville/
Morningside
Village/
Request to
Poll**

Hans Medlarz, County Engineer presented information relating to East Bridgeville Area (Morningville Village) polling letters. Mr. Medlarz reported that the Sussex County Engineering Department has been involved in helping to provide a solution. Additionally, staff has participated in onsite community meetings in an effort to collect responses. However, in the end, staff was unable to achieve the required fifty petitions. Therefore, staff is proposing to send a polling letter.

M 054 23

A Motion was made by Mrs. Green, seconded by Mr. Hudson, be it moved,

**Approve
Polling
Letters/
Morningside
Village**

based upon the recommendation of the Sussex County Engineering Department, that polling letters be distributed to the Morningside Village Development and to the surrounding subdivisions to determine boundaries for a possible inclusion in the Unified Sewer District.

Motion Adopted: 5 Yeas

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

**FEMA
Mitigation
Grant
Application**

Hans Medlarz, County Engineer presented balancing change order no. 1 and granting of final acceptance for FEMA Mitigation Grant Application: FMA-PJ-03-DE-2018-002. Mr. Medlarz reported that the Engineering Department has done the final inspection and the contractor has concluded all of the punch list items.

**M 055 23
Approve CO
No. 1 &
Final
Acceptance**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, be it moved based upon the recommendation of the Sussex County Engineering Department, that change order no. 1 for contract G22-04, residential home elevation, be approved, decreasing the contract amount by \$8,200.00, for a new final contract total of \$149,950.00, and that substantial completion be granted for January 10, 2023, and any held retainage be released in accordance with the contract documents.

Motion Adopted: 5 Yeas

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

**Wolfe
Runne
Sewer
Expansion**

Hans Medlarz, County Engineer presented Wolfe Runne sewer expansion closeout amendment no. 1 and a standalone USDA engineering agreement for Council's consideration. Mr. Medlarz reported that the supplemental funding has tight underwriting deadlines requiring the alternative design and permitting to be completed in no more than three months. GMB reviewed the available staffing and declined to design the alternate, but they were asked to be made whole and to close out their contract. Subsequently, DBF was approached who indicated that they were able to meet the anticipated schedule.

**M 056 23
Wolfe
Runne/
Approve
Closeout
Amendment
No. 1**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it moved based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 1 to the Wolfe Runne sewer expansion agreement with George, Miles & Buhr be approved in the amount not to exceed \$29,057.72, for design services associated with the lift station, contingent upon 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**

M 057 23 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it
Wolfe moved, based upon the recommendation of the Sussex County Engineering
Runne/ Department, that the Engineering Services Agreement with Davis, Bowen &
Approve Friedel be approved in the amount not to exceed \$98,000.00 for an alternate
DBF design of Sussex County Project S20-13, Wolfe Runne sewer expansion
Agreement contingent upon approval by the USDA.

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 058 23 A Motion was made by Mr. Schaeffer, seconded by Mrs. Green, to give
Greater \$1,000.00 (\$1,000.00 from Mr. Schaeffer's Councilmanic Grant Account) to
Lewes Greater Lewes Foundation for their garden expansion and improvement
Foundation program.

Motion Adopted: 5 Yeas

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

M 059 23 A Motion was made by Mrs. Green, seconded by Mr. Schaeffer, to give
Pop Warner \$4,000 (\$4,000 from Mrs. Green's Councilmanic Grant Account) to Pop
Scholars Warner Scholars (Woodbridge) for their Youth Football program.
(Woodbri-

dge)

Motion Adopted: 5 Yeas

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

Introduction Mrs. Green introduced a Proposed Ordinance entitled "AN ORDINANCE
of Proposed TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX
Ordinances COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL
DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR CERTAIN
PARCELS OF LAND LYING AND BEING IN NORTHWEST FORK
HUNDRED, SUSSEX COUNTY, CONTAINING 167 ACRES, MORE OR
LESS" filed on behalf of KAR Farming Company, LLC

Introduction of Proposed Ordinances (continued)

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN MR-RPC MEDIUM DENSITY RESIDENTIAL–RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AN MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY DISTRICT TO AMEND CONDITIONS OF APPROVAL FOR CHANGE OF ZONE NO. 1557 (ORDINANCE NO. 1763) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 63.71 ACRES, MORE OR LESS” filed on behalf of Longview Jefferson Creek, LLC

Mr. Hudson introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.95 ACRES, MORE OR LESS” filed on behalf of Frankford Community Energy Initiative II, LLC

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 LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS” filed on behalf of Augusto Morales Morales

Mr. Schaeffer 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 M MARINE DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.1 ACRES, MORE OR LESS” filed on behalf of Love Creek Acquisition, LLC

The Proposed Ordinance will be advertised for Public Hearings.

Council Member Comments

There were no Council Member comments.

M 060 23 Go Into Executive Session

At 10:51 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess the Regular Session, and go into Executive Session for the purpose of discussing matters relating to land acquisition and personnel.

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 10:57 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to land acquisition and personnel. The Executive Session concluded at 11:38 a.m.**

M 061 23 Reconvene **At 11:41 a.m., a Motion was made by Mr. Rieley, seconded by Mrs. Green, to come out of Executive Session and reconvene the Regular Session.**

Motion Adopted: 3 Yeas, 2 Absent

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

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

M 062 23 Adjourn **A Motion was made by Mr. Rieley, seconded by Mrs. Green to adjourn at 11:42 a.m.**

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**

Respectfully submitted,

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

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

