

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 5, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 5, 2021, at 10:00 a.m., in Council Chambers, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 001 21
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to amend the Agenda by striking “Introduction of Proposed Zoning Ordinances” and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

**Election of
Officers**

Mr. Lawson noted the requirement that the County Council must elect officers for 2021.

**M 002 21
Appoint
President**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that Michael H. Vincent serve as President of the Sussex County Council in 2021.

Motion Adopted: 5 Yeas.

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

**M 003 21
Appoint
Vice
President**

A Motion was made by Mr. Hudson, seconded by Mr. Vincent, that John L. Rieley serve as Vice President of the Sussex County Council in 2021.

Motion Adopted: 5 Yeas.

**M 003 21
(continued)**

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

**Council
Member
Appoint-
ments**

Mr. Lawson noted the requirement that Council appoint members to the various boards and committees and he referenced the recommendations included in Council packets for this meeting, as follows: Cynthia Green to the Delaware Association of Counties (County Director); Doug Hudson to the Delaware Association of Counties (Executive Board); Michael Vincent to the Delaware League of Local Governments; John Rieley to the Salisbury/Wicomico MPO (District 5); John Rieley to the Sussex Conservation District Board of Directors; Doug Hudson to the Sussex County Airport Committee; and John Rieley and Mark Schaeffer to the Sussex County Land Trust.

**M 004 21
Approve
Council
Member
Appoint-
ments**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Council approves the Council Member appointments, 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**

**Legal
Counsel
Appoint-
ments**

Mr. Lawson referenced the appointment of Legal Counsel and the recommendation included in Council packets for this meeting, as follows: County Attorney – J. Everett Moore, Jr.; Assistant County Attorney – Vincent Robertson; and legal representation for the Board of Adjustment, Bond Issuance, Personnel Matters, Planning and Zoning Commission, and Sussex County Council/Government, as follows: Moore & Rutt, P.A.; Parkowski, Guerke and Swayze, P.A.; Ballard Spahr, LLP; and Young Conaway Stargatt & Taylor, LLP.

**M 005 21
Approve
Appoint-
ment of
Legal
Counsel**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Council approves the 2021 appointment of Legal Counsel, 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**

**Rules of
Procedure**

Mr. Lawson presented for consideration, the Rules of Procedure which were included in Council packets for this meeting and he noted that there are no recommended changes.

- M 006 21**
Approve
2021
Rules of
Procedure
- A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Council approves the 2021 Rules of Procedure, 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 December 15, 2020 were approved by consent.**
- Corre-
spondence**
- Mr. Moore read correspondence received from West Side New Beginnings, Inc., Sussex County Volunteer Delaware 50+ Advisory Council, Autism Delaware, and Primeros Pasos, Inc.**
- Public
Comments**
- Public comments were heard and the following spoke: Paul Reiger in regard to the Board of Adjustment membership.**
- 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 November 2020 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 189 troopers assigned to Sussex County for the month of November.
 - 2. Projects Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheets, Americana Bayside – Village A Phase 2 (Construction Record) and Lovetts Reserve received Substantial Completion effective December 11th and December 18th, respectively.
- [Attachments to the Administrator's Report are not attached to the minutes.]**
- Bank
Account
Resolution**
- Mrs. Jennings presented for Council's consideration a Proposed Resolution authorizing signatures on the accounts of Sussex County Council with various financial institutions and investment firms.**
- M 007 21**
Adopt
R 001 21
- A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Resolution No. R 001 21 entitled "AUTHORIZING THE SIGNATURES ON THE ACCOUNTS OF THE SUSSEX COUNTY COUNCIL WITH VARIOUS FINANCIAL INSTITUTIONS AND INVESTMENT FIRMS TO BE MICHAEL H. VINCENT, PRESIDENT; JOHN L. RIELEY, VICE PRESIDENT; AND GINA A. JENNINGS, FINANCE DIRECTOR/CHIEF**

M 007 21 OPERATING OFFICER”.

Adopt

R 001 21

(continued)

Motion Adopted: 5 Yeas.

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

**Fourth
Quarter
Employee
Recognition
Awards**

Karen Brewington, Human Resources Director, announced the Fourth Quarter recipients of the Shining Star Employee Recognition Program. This program recognizes and celebrates employees who demonstrate exceptional performance, service, and accomplishments that reinforce the County’s mission, vision and goals. Fourth Quarter recipients are Kristen Cooper of the South Coastal Library and Alan Shields of the Constables Office. Mrs. Brewington also announced the Employee of the Year 2020 – Kristen Cooper.

**Grant
Requests**

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

**M 008 21
Council-
manic
Grant**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to give \$750.00 from Mr. Vincent’s Councilmanic Grant Account to ReTemp Development Center for Food/Outreach 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 009 21
Countywide
Youth
Grant**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to give \$1,000.00 from Countywide Youth Grants to the Delaware Agricultural Museum Association for virtual field trips.

Motion Adopted: 5 Yeas.

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

**M 010 21
Council-
manic
Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$500.00 from Mr. Vincent’s Councilmanic Grant Account to Best Buddies International, Inc. for the Sussex County Inclusion Project.

Motion Adopted: 5 Yeas.

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

M 011 21 Councilmanic Grant **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to give \$1,000.00 (\$750.00 from Mr. Vincent’s Councilmanic Grant Account and \$250.00 from Mr. Hudson’s Councilmanic Grant Account) to the Joseph Patrick Fabber Memorial Foundation for Caring for Our Caregivers.**

Motion Adopted: 5 Yeas.

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

M 012 21 Councilmanic Grant **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$750.00 from Mr. Vincent’s Councilmanic Grant Account to the Trinity Foundation for the Annual Heart & Sole 5K Fundraiser.**

Motion Adopted: 5 Yeas.

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

Council Members’ Comments

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Mr. Rieley and Mr. Hudson welcomed and congratulated the new Councilmembers – Councilwoman Cynthia Green and Councilman Mark Schaeffer.

M 013 21 Go Into Executive Session **At 10:23 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending litigation and 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 10:31 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to pending litigation and land acquisition. The Executive Session concluded at 11:46 a.m.**

M 014 21 Reconvene Regular Session **At 11:50 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to come out of Executive Session and reconvene the Regular Session.**

Motion Adopted: 5 Yeas.

**Public
Hearing/
CU 2243
(continued)**

Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage clean-up, and similar events.

- e. There shall not be any dumping of trees, branches, grass or other debris on the site.**
- f. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- g. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- h. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
- i. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**
- k. This use shall be limited to a landscaping business. For purposes of this Conditional Use, "Landscaping" shall include the Applicant's tree service business.**

(See the minutes of the Planning and Zoning Commission dated November 19 and December 10, 2020.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Larry Fifer, Attorney, was present on behalf of the Applicant. Mr. Fifer stated that the Applicant is the owner of the property and the owner/operator of the landscaping business; that the application is for an existing landscaping business; that the Applicant resides in the house on the property; that the subject parcel is split-zoned, a portion is GR and a portion is AR-1; that there is a church parking lot on one side of the parcel, and a boat storage yard across the road; that there are other commercial uses in the area; and that there was no opposition at the Planning and Zoning Commission's public hearing.

There were no public comments.

The Public Hearing and public record were closed.

**M 017 21
Amend
Conditions/
CU 2243**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to amend Condition "e" recommended by the Planning and Zoning Commission to read as follows: "There shall not be any dumping of trees, stumps and other debris on the property. Branches, limbs, leaves, and mulchable items may be stored on-site in the identified area."

Motion Adopted: 5 Yeas.

**M 017 21
(continued)**

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

**M 018 21
Adopt
Ordinance
No. 2762/
CU 2243**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2762 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.18 ACRES, MORE OR LESS”, (Conditional Use No. 2243) filed on behalf of Keith Twardowski, with the following conditions:

- a. 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.**
- b. As stated by the Applicant, there shall not be any retail sales occurring from the site.**
- c. One unlighted sign, not to exceed 32 square feet per side, shall be permitted.**
- d. The hours of operation shall be limited to 7:00 a.m. through 6:00 p.m., Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage clean-up, and similar events.**
- e. There shall not be any dumping of trees, stumps and other debris on the property. Branches, limbs, leaves, and mulchable items may be stored on-site in the identified area.**
- f. Any security lighting shall be screened so that it does not shine on neighborhood properties or roadways.**
- g. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- h. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property’s setbacks.**
- i. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**
- k. This use shall be limited to a landscaping business. For purposes of this Conditional Use, “Landscaping” shall include the Applicant’s tree service business.**

Motion Adopted: 5 Yeas.

**M 018 21
(continued)**

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

**Public
Hearing/
CZ 1927**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.5 ACRES, MORE OR LESS” (Change of Zone No. 1927) filed on behalf of Preston Lynch Dyer and Mason Dyer (Tax I.D. No. 334-4.00-34.02 & 34.03) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on November 19, 2020 at which time action was deferred. On December 10, 2020, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated November 19 and December 10, 2020.)

Jamie Whitehouse, Planning and Zoning Director, presented the application.

The Council found that Preston Dyer, Applicant, and member of Millsboro Town Center 3, LLC was present with Mark Davidson of Pennoni Associates. Mr. Dyer and Mr. Davidson stated that this is a request for a Change of Zone from AR-1 to C-2; that the property is located on a primary arterial road (Route 9); that the proposed uses include retail sales and a variety of retail professional and service businesses; that the rezoning would accommodate the nearby community’s commercial use needs; that the property will have to dedicate 20 feet along the frontage to expand the right-of-way; that there will also be a 15 foot permanent easement dedicated as part of this application; that the property abuts in the back to the Lewes to Georgetown Rails to Trails path that has been recently constructed and there will be access from this site to the Trail; that the application site is in the vicinity of other commercially zoned properties and uses; that a Traffic Impact Study was not required; that there are no wetlands on the site; that the site is located in Artesian’s CPCN for water and sewer service; that no outside storage or sales is proposed; and that the rezoning is compatible with the Comprehensive Plan.

There were no public comments.

The Public Hearing and public record were closed.

**M 019 21
Amend
Reasons for
Approval/
CZ 1927**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to amend Reasons for Approval #5 provided by the Planning and Zoning Commission should read as follows: “The site is in the “Low Density Area” according to the Sussex County Land Use Plan and the Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.”

Motion Adopted: 5 Yeas.

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

**M 020 21
Adopt
Ordinance
No. 2763/
CZ 1927**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to Adopt Ordinance No. 2763 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.5 ACRES, MORE OR LESS” (Change of Zone No. 1927) filed on behalf of Preston Lynch Dyer and Mason Dyer, with the Reasons for Approval of the Planning and Zoning Commission, as amended.

Motion Adopted: 5 Yeas.

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

**M 021 21
Adjourn**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to adjourn at 2:06 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,

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

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