

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 2, 2021**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 2, 2021, at 10:00 a.m., in Council Chambers, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>John L. Rieley</b>	<b>Vice President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>Mark G. Schaeffer</b>	<b>Councilman</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 037 21  
Amend  
and  
Approve  
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to amend the Agenda by deleting “Administrator’s Report” 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**

**Minutes**

The minutes of January 26, 2021 were approved by consent.

**Commercial  
Property  
Assessed  
Clean  
Energy  
Program**

Mrs. Jennings referenced the Commercial Property Assessed Clean Energy (aka C-PACE or D-PACE) Program which was discussed at the January 26, 2021 Council meeting. Mrs. Jennings noted that, at that meeting, Tony DePrima, Executive Director of Delaware Sustainable Energy Utility, reviewed the Program. Mrs. Jennings reported that the Participation Agreement between Sussex County and Sustainable Energy Utility, Inc. has been filled out and she presented a Proposed Resolution for Council’s consideration.

**M 038 21  
Adopt  
R 002 21**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Resolution No. R 002 21 entitled “AUTHORIZING DELAWARE SUSTAINABLE ENERGY UTILITY TO CONDUCT THE COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY PROGRAM WITHIN SUSSEX COUNTY”.

**Motion Adopted: 5 Yeas.**

**M 038 21  
(continued)**

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

**Bulk  
Delivery of  
Seed and  
Chemical  
Project/  
Change  
Order**

**Hans Medlarz, County Engineer, presented a Change Order for the Bulk Delivery of Seed and Chemical Project, Project No. M19-31, in the amount of \$111,828.80 for Growmark to perform farming operations at the Inland Bays Facility.**

**In response to questions raised by Council, Mr. Medlarz commented on the benefits to the County to conduct farming operations for water management at the County's wastewater facilities.**

**M 039 21  
Approve  
Change  
Order/  
Bulk  
Delivery of  
Seed and  
Chemical  
Project**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract M19-31, Bulk Delivery of Seed and Chemicals, be approved, which increases the Contract amount by \$111,828.80 for a new contract total of \$188,979.30, per calendar year, for the remaining contract term through the end of Fiscal Year 2021.**

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

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

**Professional  
Environ-  
mental  
Services  
Project/  
Amendment  
No. 1/ 2nd  
Revision**

**Hans Medlarz, County Engineer, presented Amendment No. 1, 2nd Revision, to the Professional Environmental Services Contract, Project 19-05, Inland Bays and the Sussex Portion of the Chesapeake Bay Watershed. This 2nd Revision to the Base Owner-Engineer Agreement is for additional services to be performed by the Engineer and for modifications of payment to the Engineer. Mr. Medlarz reported on a letter received from the Secretary of DNREC regarding Sussex County's proposal to establish a Clean Water Enhancement (Offsets and Banking ) Program.**

**M 039 21  
Approve  
Professional  
Environ-  
mental  
Services  
Project  
Contract  
Amendment**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Professional Environmental Services Base Contract with RK&K be increased in the amount of \$116,067.00 to update the design documents per DNREC's review comments.**

**Motion Adopted: 5 Yeas.**

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

**M 040 21  
Approve  
Transfer  
of Funds/  
Base  
Professional  
Environ-  
mental  
Services  
Contract/  
RK&K**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the transfer of approximately \$20,000.00 from Amendment 1 to the Base Professional Environmental Services Contract with RK&K.**

**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 of procedure for public hearings.**

**Public  
Hearing/  
CDBG  
Program**

**A Public Hearing was held on the development of the 2021 Community Development Block Grant application, which is to be submitted to the Delaware State Housing Authority. The Community Development Block Grant (CDBG) is a federal grant from the Department of HUD to the Delaware State Housing Authority (DSHA). Kent and Sussex Counties compete for the funding by making application to the DSHA.**

**Brad Whaley, Director of Sussex County Community Development & Housing, announced that the purpose of the Public Hearing is to give the citizens the opportunity to participate in the application process. Mr. Whaley stated that Sussex County's application will consist of projects in the County and in the municipalities. He reported that staff has met with all the municipalities who have asked for the County's assistance to make application to the DSHA and that the Department has held Public Hearings in all of the municipalities listed and the projects presented represent their requests.**

**Mr. Whaley reported that, over the past five years, the County and the communities within the County have received over \$8.8 million in Community Development Block Grant and HOME funding and have been able to assist 759 households and over 1,596 residents (primarily for housing rehabilitation, demolition, and sewer and water hook-ups).**

**Mr. Whaley advised that part of the CDBG requirements is that a status report be given. Mr. Whaley reported on the allocation of the funding during FY2019: approximately \$1,610,142 was received in CDBG and HOME funding and 151 low-to-moderate income households received assistance.**

**Mr. Whaley reviewed the income guidelines and other requirements to qualify for housing rehabilitation.**

**Mr. Whaley reported on the prioritization plan of CDBG funds in rural communities.**

**Public  
Hearing/  
CDBG  
Program  
(continued)**

**Mr. Whaley noted that the public hearing on this date is held to collect information to make application for funding.**

**Mr. Whaley presented the FY21 CDBG request which includes municipality applications and the County application (scattered sites), a list of projects to be submitted to the Delaware State Housing Authority for CDBG funding. Projects include rehabs, sewer and water hookups, roofing and emergency home repair, The total requested amount is \$1,903,000.**

**Mr. Whaley noted that the total funding available is approximately \$2,200,000 for Sussex and Kent Counties and that the Delaware State Housing Authority will review the applications and determine how the funding will be awarded.**

**Mr. Whaley stated that, over the years, the County Council has provided funding for emergency projects. Mr. Whaley reviewed the primary uses for this funding and the number of households assisted.**

**Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer, was in attendance and presented two proposed Resolutions for the Council's consideration.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 041 21  
Adopt  
R 003 21**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to Adopt Resolution No. R 003 21 entitled "Authorization to Submit Applications".**

**Motion Adopted: 5 Yeas.**

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

**M 042 21  
Adopt  
R 004 21**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to Adopt Resolution No. R 004 21 entitled "Fair Housing Resolution".**

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing/**

**A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.3 OF THE CODE OF SUSSEX COUNTY REGARDING THE COASTAL AREA".**

**Public  
Hearing/  
Proposed  
Ordinance/  
Coastal  
Area  
(continued)**

**The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on January 7, 2021 at which time action was deferred. On January 21, 2021, the Commission recommended approval.**

**(See the minutes of the Planning and Zoning Commission dated January 7 and 21, 2021.)**

**Jamie Whitehouse, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, were in attendance to present the Proposed Ordinance.**

**Mr. Whitehouse noted the receipt of approximately 140 emails and letters, largely appearing in support of the Proposed Ordinance. Mr. Whitehouse noted that there are some duplications in the approximately 140 emails/letters.**

**Mr. Robertson reported that the desire is to make what is in the Coastal Area match what is in the rest of Sussex County in terms of what is required for a Cluster Subdivision; that the original Proposed Ordinance that was introduced and heard by the Commission did two things: it brought the Coastal Area consistent with the rest of the County but it also added a Yield Plan to the Coastal Area; that there was a lot of opposition to the Yield Plan and that Proposed Ordinance was not acted on; that the County Council made a decision to have the Proposed Ordinance simplified and reintroduced without the Yield Plan; that the new Ordinance retains the goal of making Cluster Subdivisions consistent throughout the County; that there are no new rules or regulations which is being brought into the Coastal Area as it is just applying the existing Superior Design requirements to the Coastal Area; that by having the design standards, the County ends up having better designed subdivision and still achieving the 2 units per acre.**

**Mr. Robertson referenced a request from Sussex Alliance for Responsible Growth (SARG) to delete the word *design* from Line 164 of the Proposed Ordinance and to delete [F], Line 165 of the Proposed Ordinance. Mr. Robertson stated that he has no problem with the deletion of the word “design”; however, he recommended that “F” remain in the Proposed Ordinance as it is needed for superior design requirements. Mr. Robertson stated that Section 115-25F of the Code includes the specific superiority standards for subdivisions.**

**Councilmembers discussed the Proposed Ordinance.**

**Public comments were heard.**

**Rich Borrasso of Sussex Alliance for Responsible Growth (SARG) read the organization’s letter into the record, noting their support of the goal of the Proposed Ordinance, and their suggestion to delete the word “design” and to delete the reference to Section 115-25F.**

**Public Hearing/  
Proposed Ordinance/  
Coastal Area  
(continued)**

**Ring Lardner of Davis, Bowen & Friedel spoke on behalf of American Council of Engineering Companies of Delaware (ACEC Delaware) in support of the Proposed Ordinance, as written.**

**Chris Bason, Executive Director of the Center for the Inland Bays, spoke in support of the Proposed Ordinance.**

**There were no additional public comments.**

**The Public Hearing and public record were closed.**

**M 043 21  
Amend  
Proposed  
Coastal  
Area  
Ordinance**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to take out the word “design” in Line 164 of the Proposed Ordinance.**

**Motion Adopted: 5 Yeas.**

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

**M 044 21  
Adopt  
Ordinance  
No. 2764**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to Adopt Ordinance No. 2764 entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.3 OF THE CODE OF SUSSEX COUNTY REGARDING THE COASTAL AREA, 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**

**Introduction  
of Proposed  
Ordinances**

**Mrs. Green introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION BUSINESS, WORK TRAILER, AND OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.968 ACRES, MORE OR LESS” (Conditional Use No. 2250) filed on behalf of Paola Pacheco Vazquez (Tax I.D. No. 230-12.00-10.04) (911 Address: None Available).**

**Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9.1 ACRES, MORE OR LESS” (Conditional Use No. 2252) filed on behalf of Delaware Electric Co-Op (Tax I.D. No. 334-12.00-2.00) (911 Address: 34139 Cedar Grove Road, Lewes).**

**Introduction  
of Proposed  
Ordinances  
(continued)**

**Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.0 ACRES, MORE OR LESS” (Conditional Use No. 2253) filed on behalf of Chester V. Townsend IV and Shirley D. Townsend (Tax I.D. No. 134-11.00-2.02 & 134-11.00-3.00) (911 Address: 32859 & 32805 Vines Creek Road, Dagsboro).**

**Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.33 ACRES, MORE OR LESS” (Change of Zone No. 1935 filed on behalf of H R Phillips Inc. (Tax I.D. No. 330-7.00-12.00) (911 Address: 20141 Cedar Beach Road, Milford).**

**The Proposed Ordinances will be advertised for Public Hearing.**

**Council  
Members’  
Comments**

**Council Members’ Comments**

**Mr. Rieley commented on the completion of two important matters of business at this meeting.**

**Mr. Vincent passed along compliments received regarding the EMS Department’s help at the DMV vaccination event held February 22-24.**

**M 045 21  
Adjourn**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to adjourn at 11:32 a.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.}*