

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 26, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 26, 2019, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Irwin G. Burton III	Vice President
Douglas B. Hudson	Councilman
John L. Rieley	Councilman
Samuel R. Wilson Jr.	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 099 19
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to approve the agenda, as posted.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Minutes

The minutes of February 19, 2019 were approved by consent.

**Public
Comments**

Jim Martin commented on the lack of affordable housing in Sussex County; in particular, the need for affordable tiny homes and/or micro apartments.

Paul Reiger made comment regarding the County's building permit and inspection process.

Dan Kramer commented on a recent Board of Adjustment Hearing and the County's overall determination of setbacks.

Richard Borrasso, representing the Sussex Alliance for Responsible Growth (SARG), distributed and briefly reviewed copies of, "SARG 2018 Sussex County Comprehensive Plan Priorities Survey" that was done at the completion of the Sussex County Comprehensive Land Use Plan.

**Inland Bays
Engineering
Services/**

Hans Medlarz, County Engineer, presented Contract Amendments No. 1 – 3 to RK&K's Base Engineering Agreement for the environmental professional services for the Inland Bays and the Sussex County portion of

**RK&K/
Amend-
Ments
No.
1 - 3**

the Chesapeake Bay Watersheds. Mr. Medlarz reviewed the 3 amendments. Amendment No. 1, in the amount not to exceed \$50,000, covers specialized assistance to the Sussex County's Working Group on buffers. Amendment No. 2, in the amount not to exceed \$25,000, aims to develop a stormwater management master plan for the Delaware Coastal Airport to cover future expansion of impervious areas, including the pending Water Quality Offsets/Banking program, as well as assisting with the application for possible FAA funding. Amendment No. 3, in the amount not to exceed \$25,000, is to develop a restoration plan for the Bridgeville Branch Project. The Engineering Department is now requesting Council to approve the three amendments in the total amount not to exceed \$100,000.00.

**M 100 19
Approve
Inland Bays
Engineering
Services/
RK&K/
Amendment
No. 1 - 3**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 1 through 3 to the Professional Environmental Services Contract with RK&K be approved in the total amount not to exceed \$100,000.00, providing specialized assistance addressing a wide range of environmental issues.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**FY 2019
Project No.
19-01/
Change
Order 1**

Mr. Medlarz presented Change Order 1 for the FY 2019 General Labor and Equipment Contract, for Project No. 19-01. The change order is needed to complete the Taxiway A Lighting Project at the Delaware Coastal Airport in the amount of \$475,000.00, utilizing funds from the Delaware Coastal Airport FY19 Budget.

**M 101 19
Approve
Change
Order No. 1/
Project No.
19-01/
Taxiway A
Lighting
Project**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract No. 19-01, FY19 General Labor & Equipment, in the amount of \$475,000.00, be approved, for installation of the Taxiway A Lighting Project utilizing funds from the FY19 Budget.

Motion Adopted: 4 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Vincent, Yea**

**Public
Hearing/
Proposed
Ordinance/
Pension
Benefits**

A Public Hearing was held on the Proposed Ordinance entitled, "AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY RELATING TO PENSION BENEFITS FOR SUSSEX COUNTY EMPLOYEES TO BRING THE CODE INTO COMPLIANCE WITH THE UNITED STATES INTERNAL REVENUE CODE". The Proposed Ordinance was introduced on February 5, 2019.

(Con't.) Mrs. Jennings reported that County Code needs to be amended to ensure the County Pension Plan continues to be considered a qualified Pension Plan under the Internal Revenue Code and to allow the County to receive a determination letter from the IRS. The revisions ensure that the Pension Plan stays in a favorable tax status with the IRS so County employees are not taxed on the contributions made by the County to the Pension Plan. Mrs. Jennings reviewed a Fact Sheet noting the importance of qualification and the proposed Code changes.

There were no public comments.

The Public Hearing was closed.

M 102 19
Adopt
Ordinance
No. 2634/
Pension
Ordinance

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2634 entitled, “AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY RELATING TO PENSION BENEFITS FOR SUSSEX COUNTY EMPLOYEES TO BRING THE CODE INTO COMPLIANCE WITH THE UNITED STATES INTERNAL REVENUE CODE”.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

Public
Interview

The Council conducted a public interview for Board of Adjustment Nominee John Williamson (nominated by Councilman Hudson, District 4).

M 103 19
Approve
Board of
Adjustment
Appoint-
ment

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, that the Sussex County Council approves the appointment of John Williamson to the Sussex County Board of Adjustment, effective immediately and until such time as the term expires in June 2020.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea

Comp Plan
Priorities

Mr. Lawson provided a PowerPoint presentation based on the two documents distributed to Council; “Sussex County Comprehensive Land Use Plan – Council Priorities Discussion – February 26, 2019” and “2019 Comprehensive Plan Strategies”. Mr. Lawson noted that the Comp Plan is with the State awaiting their final approval, and that the County has begun working on two items within the scope of the Comp Plan – affordable housing, as well as buffers and wetlands.

Within the Comp Plan there are 322 total strategies that staff then organized by theme and developed “Strategy Categories”, along with

(Con't.) descriptions. As a result of that organization, there are 30 categories with 72 action items. The spreadsheet reflects 'action items', 'strategy category', 'strategies', and 'description'. Within the strategy categories, the strategy numbers reflect what is included in the Comp Plan. Based on Council's previous feedback, the top 5 priorities (of the 30 categories) are: 1. Roads/DelDOT, 2. Economic Development, 3. Open Space, 4. Agriculture, and 5. Telecommunications/Utilities. Within these top 5 categories, 19 action items are included, which Mr. Lawson reviewed.

Council then held discussion as to how they would want to proceed (subsets; timeline necessary for the action steps; ranking the 19 action items; feedback possibly needed from staff, attorney, and the consultant; etc.).

It was the consensus of the Council that Mr. Lawson will work with staff as to all that would be required to implement the top 5 priorities and report back to Council.

Adminis-
trator's
Report

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Camp Arrowhead Force Main received Substantial Completion effective February 20.

2. Council Meeting Schedule

A reminder that Council will not meet on March 5. The next regularly scheduled Council meeting will be held on Tuesday, March 12, at 10:00 a.m.

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

Presentation
Chapter 115
County
Code/
Cluster
Ordinance

Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, County Attorney, were in attendance to review and discuss a draft Ordinance amending Chapter 115 (Cluster Subdivisions) of the Sussex County Code. Councilman Burton requested that the item be placed on the agenda to better understand the original intent of a 2008 recommendation by Planning and Zoning versus the ordinance (Ordinance No. 2024) passed by County Council; in 2008 Mr. Burton served on the Planning & Zoning Commission. The original Cluster Ordinance (Ordinance No. 1709) was adopted in 2004.

In 2008, "Superior Design" criteria was established by Planning and Zoning; the intent by Planning and Zoning for Council's passage of Ordinance No. 2024 was to require that in the subdivision design process, the applicant would identify: 1. wetlands, woods and waterways; secondly, identify tree lines, scenic views and prime farmland; and

(Con't.) ultimately, the potential development area. When this was presented to County Council, it was Council's concern that these mandatory requirements placed too much of a burden on the applicant, so 'superior design' was made optional. As a result, the applicant could choose between two options: 1. the old way that that contained the existing undefined and unspecified 'superior design' criteria or 2. the new way that made the new, specific design criteria optional and provided incentives to an applicant in the land application process seeking to use these criteria.

Discussion was held regarding the need for standardized guidelines to be established to receive the "Superior Design" designation.

It was explained that if the proposed Ordinance is introduced, public hearings would be held by Planning and Zoning and County Council.

Mr. Burton read a statement into the record, which provided an overview and history of the cluster ordinance, the intent of Planning and Zoning in their 2008 "Superior Design" criteria, and his concern that Ordinance No. 2024 negated the true intent.

Introduction of Proposed Ordinance/ Cluster Ord. Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE IV, SECTION 115-25 OF THE CODE OF SUSSEX COUNTY REGARDING CLUSTER SUBDIVISIONS".

The Proposed Ordinance will be advertised for Public Hearing.

Software Demonstration/CAMA Mr. Keeler, Director of Assessment, provided a PowerPoint presentation as to the County's new assessment software – the Computer Assisted Mass Appraisal System (CAMA). Mr. Keeler used the County's website to demonstrate the public access portion of the system, which went live this past fall. He reviewed the uses (maintaining property data, public access to property information and ensuring tax equity through uniform values) and the benefits of the system. Mr. Keeler also explained the time-consuming methods in which staff had to perform tasks prior to implementation of the new software system. Mr. Keeler thanked the staff of Mapping and Addressing, Information Technology, and Assessment in the many hours spent in getting this new software system online.

Mr. Andy Wright, Chief of Building Code, presented a brief overview and demonstrated how the public could access the "Citizen's Self Service" portal to view projects and inspections using the new software. Mr. Wright thanked Council for their support in purchasing the tools to assist their offices to perform their jobs more efficiently, which, ultimately, allows better service to the public.

Use of Existing Infrastructure John Ashman, Director of Utility Planning, presented for Council's consideration a Use of Existing Infrastructure Agreement with Ferguson

**Agreement/
Ferguson
HVAC** **Enterprises, Inc. for the Ferguson HVAC project in the West Rehoboth area. The arrangement allows the wastewater originating from the approved project to be conveyed through the existing transmission system previously constructed by the County. Under the proposed arrangement, Ferguson HVAC project will connect to the existing County owned infrastructure. In return for utilization of said infrastructure, Ferguson Enterprises, Inc. will contribute \$6,497.00 for the financial catch-up contribution of the existing infrastructure to serve an additional 8.76 Equivalent Dwelling Units.**

M 104 19 **A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon**
Approve **the recommendation of the Sussex County Engineering Department, that**
Use of **the Sussex County Council approves the “Use of Existing Infrastructure**
Existing **Agreement” between Sussex County and Ferguson Enterprises, Inc. for a**
Infra- **capacity allocation in the regional transmission system, as presented on**
structure **February 26, 2019.**

**Agreement/
Ferguson
HVAC/
Ferguson
Enterprise**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Use of **Mr. Ashman presented for Council’s consideration a Use of Existing**
Existing **Infrastructure Agreement with L.W. & J.T. Mitchell Family Limited**
Infra- **Partnership for the Zwaanendael Farm Lot #1 project in the West**
structure **Rehoboth area. This arrangement allows the wastewater originating from**
**Agreement/
Mitchell** **the approved project to be conveyed through the existing transmission**
Family **system previously constructed by the County. Under the proposed**
 arrangement, Zwaanendael Farm Lot #1 will connect to the existing County
 owned infrastructure. In return for utilization of said infrastructure, L.W.
 & J.T. Mitchell Family Limited Partnership will contribute \$26,774.00 for
 the financial catch-up contribution of the existing infrastructure to serve an
 additional 39.34 Equivalent Dwelling Units.

M 105 19 **A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon**
Approve **the recommendation of the Sussex County Engineering Department, that**
Use of **the Sussex County Council approves the ‘Use of Existing Infrastructure**
Existing **Agreement’ between Sussex County and L.W. & J.T. Mitchell Family**
Infra- **Limited Partnership for a capacity allocation in the regional transmission**
structure **system, as presented on February 26, 2019.**

**Agreement/
Mitchell
Family/
Zwannen-
dael Farm**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

- Grants** **Mrs. Jennings presented grant requests for the Council’s consideration.**
- M 106 19** **A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give**
Council- **\$1,150.00 from Mr. Vincent’s Councilmanic Grant Account to the Town of**
manic **Blades for Kids Night in the Park.**
Grant
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea
- M 107 19** **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give**
Countywide **\$1,000.00 from Countywide Youth Grants to Big Brothers Big Sisters of**
Youth **Delaware for the Sussex County Bowl for Kids’ Sake Fundraiser.**
Grant
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea
- M 108 19** **A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give**
Council- **\$1,000.00 from Mr. Burton’s Councilmanic Grant Account to the Greater**
manic **Lewes Foundation for the Lewes Community Garden.**
Grant
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea
- M 109 19** **A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give**
Council- **\$1,500.00 (\$750.00 each from Mr. Wilson’s and Mr. Burton’s Councilmanic**
manic **Grant Accounts) to the Milford Little League for concession stand**
Grant **reconstruction.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea
- M 110 19** **A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give**
Countywide **\$750.00 from Countywide Youth Grants to the Delaware 4-H Association**
Youth **for the 2019 Delaware 4-H Indoor Archery State Championship to be held**
Grant **in Sussex County.**

(Con't.) Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Introduction of Proposed Ordinances Mr. Burton introduced the Proposed Ordinance entitled, “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR-RPC (GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY) TO A GR-RPC (GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY) TO ALLOW FOR GARAGE STUDIO APARTMENTS FOR CHANGE OF ZONE NO. 1721 (ORDINANCE NO. 2295) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 154.72 ACRES, MORE OR LESS” (Change of Zone No. 1878) filed on behalf of Captain’s Way Development, LLC (Tax I.D. No. 235-13.00-2.00, 2.06, 2.07, 2.08, and 235-13.00-32.00 through 332.00) (911 Address: None Available).

Mr. Hudson 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 C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS” (Change of Zone No. 1880) filed on behalf of Craig Kormanik (Tax I.D. No. 234-23.00-261.00) (911 Address: 31792 Indian Mission Road, Millsboro).

The Proposed Ordinances will be advertised for Public Hearing.

M 111 19 At 12:00 p.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson,
Adjourn to adjourn.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Nancy J. Cordrey
Assistant Clerk of the Council**

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