

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 8, 2022**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 8, 2022, at 10:00 a.m., in Council Chambers, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>Douglas B. Hudson</b>	<b>Vice President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>John L. Rieley</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 107 22  
Approve  
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to amend the Agenda by deleting “First Quarter Employee Recognition Awards”, 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 the March 1, 2022 meeting were approved by consensus.

**Corres-  
pondence**

There was no correspondence.

**Public  
Comment**

Mr. Henry Clum, Vice-President of DE Manufacturing Homeowners Association spoke about manufactured housing, sewage and drinking water concerns in Sussex County.

**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, The Estuary – Phase 3G (Construction Record) received Substantial Completion effective February 17<sup>th</sup>.

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

**2. Council Meeting Schedule**

**A reminder that Council will not meet on Tuesday, March 15<sup>th</sup>.  
The next regularly scheduled Council meeting will be held on  
Tuesday, March 22<sup>nd</sup>, at 10:00 a.m.**

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

**ARPA  
Discussion  
&  
Recommen-  
dation**

**Mrs. Jennings explained that in March of 2021, Congress passed the  
American Rescue Plan of 2021 (ARPA) into law, which established the  
Coronavirus State and Local Fiscal Recovery Fund. This fund is to be used  
to help local governments nationwide with COVID-19 pandemic recovery  
assistance.**

**Sussex County will receive a total of \$45,495,460 in direct appropriations  
from the U.S. Treasury. The County received \$22,747,730 on May 17, 2021.  
The County will receive the 2<sup>nd</sup> half in May of 2022. All funds must be  
encumbered by December 31, 2024.**

**Mrs. Jennings provided the eligible uses for the funding:**

- Replace Public Sector Revenue Loss**
- Support the Public Health Response to COVID-19**
- Address the Negative Economic Impacts of COVID-19**
- Offer Premium Pay for Essential Workers**
- Invest in Water, Sewer, and Broadband Infrastructure**

**Mrs. Jennings explained that each government can do a calculation to  
determine how much they lost during the COVID-19 timeframe or can take  
off a \$10 million revenue loss allowance. These funds are to be used for  
government services traditionally provided by the government. The funds  
cannot be used for rainy day funds, debt service, additional pension  
contributions or any activity that would conflict with the ARPA statute.**

**Mrs. Jennings discussed the public health response to COVID-19. This  
details information relating to COVID-19 prevention and treatment type of  
responses.**

**The next category addresses the negative economic impact that affected  
households, small businesses, non-profits, and industries. Within each of  
those categories, there are definitions of what qualifies that a household or  
small business has been impacted. For impacted households, the income  
would be at or below 65 percent of area median income (AMI). In addition,  
you can use the 300% of the federal poverty level which is \$65,880 for a  
family of three people. For Sussex County, a family of three at a 65 percent  
calculation, would equal an income of \$43,983. Additionally, there is a  
category for disproportionately impacted household; this includes income at**

**ARPA  
Discussion  
&  
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(continued)**

or below 40 percent of area median income. You could also presume any household of three earning below \$40,626 is disproportionately impacted and eligible for services (185% of the Federal Poverty Level). Mrs. Jennings plans to use the impacted household figures with her recommendations.

Once an impacted group is determined, the funds can be used for certain items. For impacted households, the eligible uses include:

- Food assistance and food banks
- Emergency housing assistance
- Health insurance coverage
- Benefits for surviving family members
- Burials, home repairs, and home weatherization
- Cash assistance
- Childcare services
- Assistance to address the impact of early learning loss

For disproportionately impacted households funds are eligible for:

- Remediation of lead paint or other hazards
- Investments in medical facilities and equipment
- Housing vouchers and assistance relocating to neighborhoods with higher economic opportunity
- Investments in neighborhoods to promote improved outcomes
- Improvements to vacant/abandoned properties
- School and other educational equipment and facilities

For an impacted small business, they must have no more than 500 employees, be independently owned, and operated, and not dominate in its field of operation to quality. In addition, they must have had decreased revenue or gross receipts, increased costs and challenges covering payroll, rent, mortgage, and other operating costs. Eligible uses include loans or grants to mitigate financial hardship and technical assistance, counseling, or other services to support business planning.

An impacted nonprofit must be a 501(c)(3) or 501(c)(19), had decreased revenue, increased costs, financial insecurity, and challenges covering payroll, rent, mortgage and other operating costs. Impacted industries shall be a travel, tourism, or hospitality sector. In addition, they should be an industry that experienced at least 8 percent employment loss from pre-pandemic levels. Eligible uses for the funds include loans or grants to mitigate financial hardship and technical assistance that mitigates negative economic impacts of the pandemic.

Mrs. Jennings stated that Counties may use Recovery Funds to restore and bolster public sector capacity, which supports government's ability to deliver critical COVID-19 services. These services include:

**ARPA  
Discussion  
&  
Recommendation  
(continued)**

- **Payroll and covered benefits for public safety employees**
- **Rehiring public sector staff to pre-pandemic levels or above pre-pandemic levels (7.5 percent growth); based on employment levels as of January 27, 2020 (30 additional SC employees could be paid by ARPA)**
- **Provide worker retention incentives**
- **Invest in additional technology infrastructure to adapt government operations to the pandemic (video-conferencing software)**

**Mrs. Jennings shared information relating to capital expenditures; capital projects must be related to public health and/or negative economic impacts and be proportional to the pandemic impact identified. To ensure the expenditure is eligible, counties are required to write a written justification which includes the following:**

- **Description of harm or need to be addressed**
- **Explanation of why the capital expenditure is appropriate (i.e., why existing resources are inadequate)**
- **Comparison of proposed capital expenditure project against at least two alternative capital expenditures and why the proposed capital expenditures is superior.**

**Mrs. Jennings provided the information relating to eligibility for Premium Pay for Essential Workers. The eligibility requirements are as follows:**

- **Essential workers who face heightened risks of COVID-19 due to the character of their work**
- **Work involving regular in-person interactions and was not able to be performed from a residence**
- **Any work performed by an employee of the state or local government**
- **Treasury urges that priority is placed on low-moderate-income persons.**

**She added that premium pay could be up to \$13.00 per hour.**

**Mrs. Jennings discussed water, sewer, and broadband eligibility requirements. For water, stormwater, and sewer infrastructure to be eligible, it must align with the EPA's Clean Water State Revolving Fund and Drinking Water State Revolving Fund. In addition, it must improve or build wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events or assist water systems most in need on a per household basis according to State affordability criteria. Broadband infrastructure must provide services that meet at least 100 megabits per second download.**

**Mrs. Jennings provided the recommendation goals. The goals are as follows:**

**ARPA  
Discussion  
&  
Recommendation  
(continued)**

- **Projects that meet ARPA requirements**
- **Projects that can be completed or under contract by December 31, 2024**
- **Do not “grow” government with these temporary funds**
- **Do not invest in something that cannot be supported after the funds are gone**
- **Strengthen the programs/services that are already in place**
- **Align the recommendations with Council priorities**
- **Affordable Housing**
- **Adequate Infrastructure – Sewer and I.T.**
- **Do not duplicate what has already been done or will be done**

**Mrs. Jennings showed information about the County services that are already in place and the funding that will be allocated to each service.**

**Mrs. Jennings further discussed the affordable housing recommendation that will utilize the current Housing Trust Fund program endorsed by Council and will expand its reach. The current program provides direct buyer assistance in the amount of \$10,000 if income is under 80% AMI. For the development loan fund, it is \$100,000 a project or \$10,000 a unit with a cap of \$100,000. Funds are available once a year consisting of a 5-year loan with 0% interest. In addition, there is a deed restriction placed on the property consisting of 20-year affordability or 30-year affordability for rentals. The proposed program allows a direct buyer assistance as follows: 100%-120% AMI - \$10,000, 66%-99% AMI - \$20,000 and 65% AMI and under - \$30,000. A development grant fund is being proposed that would provide \$500,000 a project or \$50,000 a unit with a cap of \$500,000. Funds could be available a second year if activity warrants it. The deed restriction would be 20-year affordability or 30-year affordability for a rental. Mrs. Jennings explained that the change is that the proposed program is a grant rather than a loan. However, it is still deed restricted and the applicant would still need to send in the proper paperwork to verify their eligibility.**

**Mr. Vincent asked why the program would go from a loan to a grant. Mrs. Jennings explained that it relates to ARPA funds. To do a loan, there are a lot more restrictions and reporting requirements that will live on for many years to come. Once the ARPA funds are spent, they are gone. In addition, concerns were raised from Affordable Housing groups when the loan fund was rolled out. They had concerns that in five years, they would not be able to pay off the loan. Mrs. Jennings further explained that this is only for the ARPA period, it will probably go back to a loan after that timeframe.**

**Mrs. Jennings shared additional low-income services included in the recommendation. The recommendations are as follows:**

- **Increase the allowance from \$7,500 to \$10,000**
- **New roof replacement program – higher threshold; contractors have been able to keep up with these**

**ARPA  
Discussion  
&  
Recommendation  
(continued)**

- **New “weatherization” program – completed for finished jobs or jobs in the pipeline (window or door replacements)**
- **Additional funds to help homeowners connecting to our water districts – 65% of AMI or below**
- **Low-income program for delinquent taxes – 65% of AMI or below (people don’t qualify for the above because of taxes they owe)**
- **Low-income program for connection fees – 65% of AMI or below**

**It is being recommended to hire one additional person per shift for the EMS and EOC departments to get through COVID; this would mean four additional people per department. If positions are still needed after funding is exhausted, RTT is eligible to be used.**

**Mrs. Jennings explained the eligible uses and restrictions for the grant program. The recipients must respond to public health emergencies and the negative economic impacts related to the public health emergency. The program is not eligible for affording housing. Only non-profits are eligible for projects of \$500,000 or greater. In addition, they must be able to meet the compliance and reporting requirements of the U.S. Treasury online application process with first round being due April 29<sup>th</sup>.**

**Mrs. Jennings provided the steps for the grant program if approved. She noted that all awards through the non-profit grant program, intergovernmental grant program, and the affordable housing grant fund will be brought to Council for a vote.**

**The first grant request; Intergovernmental Grant was then presented. This is a statewide substance use disorder needs assessment which will be broken down by County that will look into how COVID-19 influenced substance abuse in our communities. The total cost is \$445,097; Kent and Sussex are being asked to contribute \$75,000 each. The project will be coordinated through New Castle County Government. There are two town hall meetings on this initiative scheduled for March 15, 2022, at Delaware Tech in Georgetown.**

**Mr. Rieley asked what type of data will come back from this study. Mr. Lawson read the scope of work that was used during the RFP process. Mr. Rieley questioned if the data would be shared once the study is completed. Mrs. Jennings replied yes; once completed, it will be a public document.**

**Mrs. Green asked if the assessment includes the suicide issues that have come along with COVID and substance abuse. Mrs. Jennings replied that if it relates to substance abuse it would be included.**

**M 108 22  
ARPA  
Funding  
Approval**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it be moved that the Sussex County Council approves a grant of \$75,000 from its ARPA funding to New Castle County for the purposes of supporting a statewide substance use disorder needs assessment.**

**M 108 22  
ARPA  
Funding  
Approval  
(continued)**

**Motion Adopted: 5 Yeas.**  
**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Financial  
Transpar-  
ency  
Website**

**Mrs. Jennings shared a new financial transparency website. This will allow residents the ability to see the County's financial data in real-time. It is hoped that the public will use this website, not only to see how the County spends its everyday tax dollars, but also track how the County is spending the \$45.5 million in ARPA funds.**

**SC WRF &  
RB WTP/  
Project C19-  
11/CO No.  
20**

**Mr. Medlarz presented Change Order No. 20 for the South Coastal WRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2., Project No, C19-11 for Council's consideration. This Change Order includes replacement of the Inland Bay Screens and Masonry Modifications.**

**M 109 22  
Approve CO  
No.20/  
Project C19-  
11**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that be it be moved based on the recommendation of the Sussex County Engineering and Finance Departments, that Change Order No. 20 for Contract C19-11, South Coastal WRF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2 – General Construction, be approved, increasing the contract by \$260,844.17.**

**Motion Adopted: 5 Yeas.**  
**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Interna-  
tional  
Building  
Code  
Discussion**

**Mr. Andy Wright, Chief of Building Code presented information for Council's consideration for adoption of a new version of the International Building Code (IBC) and International Residential Code (IRC). Currently, the County uses the 2012 edition. Mr. Wright noted that these are published every three years. Over the past year, inquires have been received from builders asking if Sussex County would consider adopting the newer Codes.**

**Mr. Wright outlined the significant changes between the 2012 and 2021 editions of the IRC.**

**The grade floor emergency escape and rescue opening (Definition R 202) requirements are the same. However, it now requires the measurement to be taken from the clear opening and not the sill height.**

**The wind design criteria change the current basic design wind speeds of 100 to less than 110 mph to the ultimate design wind speeds of 115 to less than 130 mph. There are no new requirements needed.**

**International Building Code Discussion (continued)**

**For the dwelling/garage opening protection section, the self-closing device must be adjusted strong enough to bring the door to a close and self-latch.**

**The code has deleted the requirement of one habitable room to have a minimum floor area of 120 square feet and will now require all habitable rooms to be only 70 square feet in area.**

**For hazardous locations (glazing and wet surface), the measuring in a straight line has been deleted from the exception. The code now would require any glazing within 60 inches horizontally, from the water's edge of a bathtub, hot tub, spa, whirlpool, or swimming pool or from the edge of a shower, sauna or steam room would have to be safety glazed (tempered glass).**

**For stair treads and risers, new stair measurements, the County adopted minimum 9-inch treads and maximum 8.25-inch risers. The 2021 edition requires minimum 10-inch tread and a maximum 7.75-inch riser. New stair measurements could be adopted, or older measurements can be adopted.**

**Mr. Wright believes that the most significant change in the two editions is the Automatic Fire Sprinkler System requirement. The 2021 edition has a requirement that all new one-and-two-family dwellings and townhomes have an automatic fire sprinkler system. Mr. Wright noted when the 2012 code was adopted, there was a work group that recommended for this item to be exempted and if desired, that could be adopted the same way.**

**A discussion was held about the cost, and water accessibility for a residential fire sprinkler system.**

**Mr. Rieley asked how the proposed changes impact tiny homes? Mr. Wright replied that he does not believe any of them would be an issue, however, a fire sprinkler system would be difficult.**

**Mr. Rieley asked if an appendix for mobile homes should be looked further into now. Mr. Wright replied that he believes there is one currently in the International Code Council, however, the Sussex County Code through Chapter 115 lists requirements for manufactured homes. Mr. Lawson added that there have been conversations with Kent County who currently has an appendix in place. Staff is working to determine what that appendix gives owners of manufactured housing that the current Sussex County Code does not afford them.**

**Mr. Lawson shared that an Ordinance would come back for introduction.**

**President Vincent gave the gavel over to Vice President Hudson.**

**Grant Requests**

**Mr. Vincent requested for this item to be placed on the agenda, Good Ole Boy Foundation, Inc. under Grant Requests. He commented that this is a group of local people mostly in Southern Sussex County that does a**



**Grant Requests (continued)**

tremendous amount of work for the public to benefit their community for free. All of their work and effort is done by volunteers. Most recently, the group helped families that were impacted by the Rigby Hotel fire in Laurel. There were 13 families including 55 people that lived at that property. The Good Ole Boy Foundation, Inc. showed up the night of the fire. They took all of the families to the Laurel Fire Hall and got them hotel rooms that night. The families are now in transitional housing, and some are in permanent properties. The goal is for all of the families to be placed in permanent properties.

Mr. Vincent commented that this group helps families during times of need which he believes Sussex County is all about.

**M 110 22 Good Ole Boys Foundation, Inc. Grant**

A Motion was made by Mr. Vincent, seconded by Mr. Schaeffer to grant Good Ole Boy Foundation, Inc. \$25,000.00 from contingency funds to utilize with finalizing all of the people that were affected by the Rigby Hotel fire to get them into permanent housing and any money left over can be utilized for other functions that they do.

**Motion Adopted: 5 Yeas.**

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

Vice President Hudson gave the gavel back to President Vincent.

**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 TOURIST HOME, EVENT VENUE, & HAIR SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 2.05 ACRES, MORE OR LESS”

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 21.32 ACRES, MORE OR LESS”

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 C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PORTION OF A PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.19 ACRES, MORE OR LESS “

Mr. Schaeffer introduced the Proposed Ordinance entitled “AN

**ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A FOOD PANTRY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.966 ACRES, MORE OR LESS”**

**Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE AND OFFICE BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.305 ACRES, MORE OR LESS”**

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

**Council  
Members’  
Comments**

**There were no Council Member comments.**

**M 111 22  
Go Into  
Executive  
Session**

**At 11:20 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 pending/potential 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 11:30 a.m., an Executive session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to potential/pending litigation and land acquisition. The Executive Session concluded at 12:43 p.m.**

**M 112 22  
Reconvene**

**At 12:47 p.m., a Motion was made by Mr. Hudson seconded by Mr. Schaeffer 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, Yea;  
Mr. Hudson, Absent; Mr. Rieley, Absent;  
Mr. Vincent, Yea**

**E/S Action**

**There was no action on Executive Session matters.**

**M 113 22  
Adjourn**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to adjourn at 12:48 p.m.**

**Motion Adopted: 3 Yeas, 2 Absent**

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