

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 9, 2021

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 9, 2021, 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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 079 21
Amend
and
Approve
Agenda**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to amend the Agenda by deleting “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**

Minutes

The minutes of March 2, 2021 were approved by consent.

**M 080 21
Approve
Consent
Agenda
Items**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to approve the following items listed under the Consent Agenda:

- 1. Use of Existing Wastewater Infrastructure Agreement, IUA-1114
Riverside Plaza Project, Oak Orchard Area**
- 2. Use of Existing Wastewater Infrastructure Agreement, IUA-CZ870
Tanger Seaside (Microtel) Project, West Rehoboth Area**
- 3. Use of Existing Wastewater Infrastructure Agreement, IUA-10-10-158
Agave Tequila Bar & Restaurant, West Rehoboth Area**
- 4. Use of Existing Wastewater Infrastructure Agreement, IUA-1124
Revised
Chase Oaks Project, Angola North Area**

**M 080 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**

**Atlantic
General
Hospital
Presentation**

Michael Franklin, Chief Executive Officer of Atlantic General Hospital, along with other representatives, presented an update on Atlantic General Hospital & Health System, Fiscal 2020, in review, including the Hospital's COVID-19 response, and including what's coming in 2021 to serve the growing needs of the community, including proposed facility upgrades and expansion of services closer to the Delaware line. The presentation included statistics on services provided to Sussex County residents: 2,200 ER visits, 500 in-patient visits, 4,100 out-patient services, 4,700 physician office visits, for a total of 11,000 total Sussex County encounters, which make up over one-half of the hospital's total encounters with patients.

**Adminis-
trator's
Report**

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

1. Council Meeting Schedule

The next regularly scheduled Council meeting will be held on March 16th at 10:00 a.m. in Room 540, at the Carter Partnership Center at Delaware Technical Community College, 21179 College Drive, Georgetown.

**Grant
Requests**

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

**M 081 21
Council-
manic
Grant**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to give \$4,500.00 (\$3,500.00 from Mr. Hudson's Councilmanic Grant Account and \$1,000.00 from Mr. Schaeffer's Councilmanic Grant Account) to West Rehoboth Community Land Trust for low income housing support.

Motion Adopted: 5 Yeas.

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

**M 082 21
Council-
manic
Grant**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to give \$1,000.00 from Mr. Schaeffer's Councilmanic Grant Account to the Greater Lewes Foundation for the Lewes Community Garden for construction of a picnic grove and for additions to the community garden.

Motion Adopted: 5 Yeas.

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

**M 083 21
Council-
manic
Grant**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to give \$1,500.00 (\$300.00 from each Councilmanic Grant Account) to the American Cancer Society for Relay for Life of Sussex County.

Motion Adopted: 5 Yeas.

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

**M 084 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 the Kim & Evans Family Foundation for a fundraiser benefitting disadvantaged people.

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/
Proposed
Ordinance/
Amending
Annual
Operating
Budget**

A Public Hearing was held on the Proposed Ordinance "AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2021 TO INCORPORATE ADDITIONAL REALTY TRANSFER TAX REVENUE AND ALLOWABLE EXPENDITURES".

Mrs. Jennings explained that the Proposed Ordinance to amend the Annual Operating Budget Ordinance for Fiscal Year 2021 is to incorporate additional Sussex County Realty Transfer Tax revenue and allowable expenditures by amending the Anticipated General Fund Revenues, the Anticipated General Fund Appropriations and the Anticipated Capital Project Fund Revenues and Expenditures in the Annual Operating Budget for the Fiscal Year Ending June 30, 2021.

Mrs. Jennings noted that the Fiscal 2021 Budget was conservative due to the uncertainty of COVID-19 impacts and a baseline budget was adopted with eight supplemental budgets that could be enacted when certain revenue milestones are reached. Also, Realty Transfer Tax was budgeted at 65 percent of what was expected to be collected. Mrs. Jennings reported that, after seven months into the Fiscal Year, it can be determined how revenues have been impacted by COVID and there is opportunity to amend the Budget by increasing Realty Transfer Tax eligible expenditures. As of January 31, 2021, there was a Year-to-Date Budget of \$13,125,000; the County actually has \$32,540,000 collected through January 31, 2021, a difference of \$19,415,000; supplementals were enacted in the amount of \$8,000,000, leaving \$11,415,000 of Realty Transfer Tax that was brought in but not anticipated.

**Public
Hearing/
Proposed
Ordinance/
Amending
Annual
Operating
Budget
(continued)**

Mrs. Jennings presented and explained her recommendation to adjust expenditures for the Realty Transfer Tax, as follows: land acquisition for future EMS stations (\$1,000,000), ambulance service (\$5,375,000), Economic Development Loan Program (\$3,000,000).

Public comments were heard.

Jim Arrington, President of the Volunteer Firefighters Association, spoke in support of the Proposed Ordinance.

There were no additional public comments.

The Public Hearing and public record were closed.

Mr. Rieley offered an amendment to the Proposed Ordinance to provide additional funding in Local Law Enforcement Grants, which are currently \$30,000 a year. Mr. Rieley proposed an additional \$5,000; this additional funding would be a one-time only grant to be used for technology or equipment (no salaries). It was noted that there are four police departments that get \$15,000 a year and, therefore, that amount would be pro-rated.

**M 085 21
Amend
Proposed
Budget
Ordinance**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to amend the Proposed Ordinance to include an additional \$5,000.00 in funding in Local Law Enforcement Grants (from \$30,000 per year to \$35,000 per year with the exception of four departments that do not receive the full \$30,000; these departments would receive a pro-rated amount).

Motion Adopted: 5 Yeas.

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

**M 086 21
Adopt
Ordinance
No. 2765**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2765 entitled "AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2021 TO INCORPORATE ADDITIONAL REALTY TRANSFER TAX REVENUE AND ALLOWABLE EXPENDITURES", 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**

**DCF
Agreement**

With the approval of the Proposed Budget Amendment Ordinance, Mrs. Jennings presented for Council's consideration an Agreement with Delaware Community Foundation to manage the Ambulance Grant Fund.

Agreement (continued) **Mrs. Jennings responded to questions regarding the Foundation's fees and how those fees will be covered.**

M 087 21 **A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that the**
Approve **Sussex County Council enter into an Agreement with the Delaware**
Agreement/ **Community Foundation to create a philanthropic and charitable fund**
Delaware **called the Sussex County Ambulance Fund.**
Community

Foundation/ **Motion Adopted: 5 Yeas.**
Sussex

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

Update **Mrs. Jennings reported that, in December 2015, the Council signed a**
MOU/ **Memorandum of Understanding (MOU) that transferred the County's**
Dog **authority of dog control to the Office of Animal Welfare beginning in 2016.**
Control **The State of Delaware's authority of dog control was later formalized in**
Enforce- **Delaware Code in 2017, which moved the responsibility of dog control from**
ment **Title 9 to Title 16. The State of Delaware has reached out to the three**
 counties and the City of Wilmington to update the last MOU that was
 signed in 2020. Mrs. Jennings reported that the difference between the
 2020 MOU and the new MOU is the pricing structure; adding three
 additional staff and the terms whose terms would extend to 2024. The
 pricing structure is based on a per capita distribution among the three
 counties and the City of Wilmington. The current cost of the County's
 MOU is \$768,364.00; the proposed increase would result in a new total cost
 of \$853,422.00 (for FY 2022).

Chief Mark Tobin and Executive Director Christina Motoyoshi of the
Office of Animal Welfare gave a presentation on the services they provide
the County and the reason why additional staff are needed.

Council members asked for a quarterly report from the Office of Animal
Welfare.

M 088 21 **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that the**
Approve **Sussex County Council approves the Memorandum of Understanding with**
MOU/ **the State of Delaware to enforce Delaware Dog Control and Dangerous Dog**
Dog **Statutes, as presented.**
Control

Enforce- **Motion Adopted: 4 Yeas, 1 Nay.**
ment

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

**Western
Sussex
Trans-
mission
Facilities/
Contract
Nos. 4 & 6/
Change
Orders
and
Close-out**

Hans Medlarz, County Engineer, presented Change Order No. 4 for Contract 4, Project S19-28, Pumping Stations, Western Sussex Transmission Facilities, and a Contract Close-out for Contract 6, Project S20-35. Change Order No. 4, in the amount of \$21,504.87 is for a Delmarva Power & Light transformer modification and SCADA System upgrades and includes an associated two week contract time extension. Mr. Medlarz reported that the Western Sussex Transmission Facilities, Contract 6, Maintenance Garage/Office Building, Project S20-35 was substantially complete on December 4, 2020 and the project was determined to be complete upon final inspection of punch list items on February 2, 2021; with no outstanding issues, a Balancing Change Order No. 2 in the credit amount of \$19,389.00 can be issued.

**M 089 21
Approve
Change
Order/
Project
S19-28**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that Final Balancing Change Order No. 2 for S20-35, Western Sussex Transmission Facilities, Contract 6, be approved, decreasing the Contract amount by \$19,389.00 and that Substantial Completion be granted effective December 4, 2020, with any held retainage released in accordance with 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**

**M 090 21
Approve
Close-Out/
Project
S20-35**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 4 for Contract S19-28, Western Sussex Transmission Facilities, Contract No. 4, Pump Station, be approved, increasing the Contract by \$21,504.87, for a new Contract total of \$3,353,775.84.

Motion Adopted: 5 Yeas.

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

**SCRWF
and RBWTP
Project/
Change
Orders**

Hans Medlarz, County Engineer, presented Change Order Nos. 8 and 9 for the South Coastal RWF Treatment Process Upgrade No. 3 and Rehoboth Beach WTP Capital Improvement Program, Phase 2, General Construction Project C19-11. The change orders are for repairs in the oxidation ditches and for line stops for the by-pass tie-in to minimize downtime.

**M 091 21
Approve
Change
Orders**

A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order Nos. 8 and 9, for Contract C19-11, South Coastal RWF Treatment Process Upgrade No. 3 and Rehoboth Beach WTP Capital

- M 091 21**
Approve
Change
Orders/
SCRWF
and RBWTP
Project
(continued)
- Improvement Program, Phase 2, General Construction Project C19-11, be approved, increasing the Contract amount by \$34,765.50 and \$45,600.00, respectively, for a new Contract total of \$40,727,399.64.**
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;
Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Vincent, Absent**
- Proposed**
Woodlands
II Expansion
of the
SCUSSD
- John Ashman, Director of Utility Planning and Design, presented a request to prepare and post notices for the Woodlands II Annexation of the Miller Creek Area of the Sussex County Unified Sanitary Sewer District. The proposed expansion would include Parcel 134-19.00-23.00. The Engineering Department received a request from Civil Engineering Associates on behalf of their client, Gulfstream Development, LLC, the owners/developers of the Proposed Woodlands II Subdivision (a proposed 33-lot subdivision). With Council's approval, a public hearing will be scheduled.**
- M 092 21**
Post Notices
for the
Woodlands
II Expansion
of the
SCUSSD
- A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that the Sussex County Engineering Department is authorized to prepare and post notices for the Woodlands II Expansion of the Sussex County Unified Sanitary Sewer District to include Parcel 134-19.00-23.00 located along Bayard Road and Central Avenue, 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**
- M 093 21**
Go Into
Executive
Session
- At 11:41 a.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, 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 11:45 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 12:25 p.m.**

M 094 21 **At 12:30 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Reconvene**
Schaeffer, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 4 Yeas, 1 Absent.

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

E/S Action There was no action on Executive Session matters.

M 095 21 **At 12:30 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Adjourn**
Rieley, to adjourn.

Motion Adopted: 4 Yeas, 1 Absent.

Vote by Roll Call: Mrs. Green, Absent; 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.}