

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 2, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 2, 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 164 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 March 26, 2019 were approved by consent.

**Public
Comments**

Public Comments

Jim Martin commented on the affordable housing crisis.

Michele Williams commented on the affordable housing crisis.

Bernard and Pat Cline spoke in support of CHEER's request for funding for a new kitchen.

Greg Lake commented on the affordable housing crisis and the struggles of the homeless.

Paul Reiger commented on Board of Adjustment matters.

Patricia Cookson commented on the struggles of homelessness and the affordable housing crisis.

(continued) **Dan Kramer commented on Board of Adjustment matters.**

Presentation by Police Chiefs' Association **Robert Longo, Chief of Police of Milton Police Department, and R.L. Hughes, Chief of Police of Georgetown Police Department, were in attendance representing the Sussex County Police Chiefs' Association, an organization consisting of twenty municipal police agencies. A presentation was given on municipal policing highlighting increased population and traffic volume, complaints received, police activity (criminal summons, warrants, DUI, and traffic citations), complex investigations (domestic violence, fraud, cyber), opioid crisis, homelessness, mental health, and programs and plans to solve community issues.**

Rules **Mr. Moore read the rules of procedure for public hearings on zoning applications.**

Public Hearing/ CU 2158 **A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 91.304 ACRES, MORE OR LESS" (Conditional Use No. 2158) filed on behalf of Millsboro Solar, LLC. (Tax I.D. No. 233-15.00-57.01 & 57.02) (911 Address: None Available).**

The Planning and Zoning Commission held a Public Hearing on this application on February 14, 2019 at which time action was deferred. On February 28, 2019, the Commission recommended approval with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated February 14 and 28, 2019.)

Janelle Cornwell, Planning and Zoning Director, presented the application.

The Council found that Linda Nwadike, Engineer with SunEnergy 1, LLC was present on behalf of the application. She reported that the proposed project would be their first project in Delaware; that they propose to lease the property from the Rickards family for a term of 30 years; that the project would be located on Nine Foot Road and would utilize 79 acres; that they propose a landscape buffer plan; that the solar panels would not be visible to houses in the area; that the project site is mostly surrounded by agriculture land; that no Traffic Impact Study was required; that the site is located in a Low Density Area according to the Future Land Use Plan; that the site is located in Investment Level 4 according to the Strategies for State Policies and Spending; that the project will result in economic benefits to the community; that there will be no need for water or sewer; that the project will create no noise and no emissions; that there will be a workforce of up to 100 people during the construction phase; and that the project will not negatively impact the adjoining/abutting properties and will not

**Public
Hearing/
CU 2158
(continued)**

endanger public health or safety. Dr. Greg Hanket, PH.D, University of Delaware Institute of Energy Conversion, Associate Scientist, commented on the safety of the project, stating that the project is not hazardous. Bill McCain, a real estate appraiser, commented on the project's impact on surrounding properties, stating that there would be no adverse impact.

Public comments were heard.

There were no public comments in support of the application.

Bryan and Adrienne Miller, area residents, spoke in opposition to the project. They commented on health and safety concerns and about the negative impact on property values. Mr. and Mrs. Miller also commented that solar equipment/materials contain hazardous substances that may be released when the facilities are damaged or dismantled.

Dan Kramer questioned why the proposed use is called a 'solar farm' and stated that it is a commercial entity and it should be located in a commercial zone.

Gretchen Klein commented on drainage concerns.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 165 19
Adopt
Ordinance
No. 2642/
CU 2158**

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to Adopt Ordinance No. 2642 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 91.304 ACRES, MORE OR LESS" (Conditional Use No. 2158) filed on behalf of Millsboro Solar, LLC, with the following conditions:

- A. No storage facilities shall be constructed on the site.**
- B. Lighting on the facility shall only consist of perimeter lighting needed for security purposes. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- C. One unlighted sign, not to exceed 32 square feet in size, shall be permitted.**
- D. The site shall be secured by fencing with a gate with a "Knox Box" to accommodate emergency access by the local fire company or other emergency responders.**
- E. There shall be a vegetated buffer between the boundary of the conditional use area and the perimeter fence to screen the use from the view of neighboring properties. This buffer shall be at least 30-feet wide, with at least 12 evergreen trees and 10 shrubs per 100 linear feet. This buffer shall be located along Nine Foot Road, Fox Run and the**

**M 165 19
Adopt
Ordinance
No. 2642/
CU 2158
(continued)**

- northeast border of the site between Nine Foot Road and Fox Run.
- F. Any transformers or similar equipment shall be centrally located on the site away from all nearby residential uses.**
 - G. All grounds, including the area outside of the fence, shall be maintained so that they do not become overgrown.**
 - H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Procla-
mations/
National
Service
Recognition
Day and
Fair
Housing
Month**

A Proclamation entitled “PROCLAIMING APRIL 2, 2019 AS *NATIONAL SERVICE RECOGNITION DAY* IN SUSSEX COUNTY” was presented to representatives of AmeriCorps and Senior Corps in Sussex County.

A Proclamation entitled “PROCLAIMING THE MONTH OF APRIL AS *FAIR HOUSING MONTH* IN SUSSEX COUNTY” was presented to George Thomasson of the Sussex County Association of Realtors, along with Brandy Nauman, Sussex County’s Fair Housing Compliance Officer, and Kevin Gilmore of Habitat for Humanity.

**Buffers and
Wetlands
Working
Group
Update**

Mr. Lawson reported on the progress of the County’s Buffers and Wetlands Working Group. Thus far, the Working Group has met three times; the focus of the Group has been on the definitions that reference buffers, wetlands, and other resources in County Code. (A copy of the working document for definitions was previously distributed to Council.) The next step for the Working Group is to discuss how best to develop standards to protect these resources. Mr. Lawson reported that, at a future Council meeting, the definitions and how to protect the resources will be presented to Council in a draft ordinance for consideration.

**Legislative
Update/
Legislation
Regarding
Property
Mainte-
nance
Procedures
and
Penalties**

Mr. Lawson reported on the agenda item entitled “Legislative Update”. He noted that the agenda was amended on March 29th to include this item due to the fact that there is legislation being circulated in Dover regarding property maintenance. He noted that this originated with Kent County circulating proposed legislation and that Sussex County Administration and staff thought it might be a good idea to ask the General Assembly to include Sussex County in the legislation. No Bill has been introduced yet; there is only draft language, which would need to be fine-tuned so that it applies to Sussex County. Sussex County would request that it is enabling legislation (only) for Sussex County’s property maintenance procedures. Michael Costello, Government Affairs Manager, and Lester Shaffer, Chief Constable, discussed the County’s current process for violations and property clean-up procedures. They explained how this enabling legislation would establish regulations regarding property maintenance and penalties for violations that would allow for a much quicker time frame and simpler

(continued) process for violations and property clean-up procedures.

**Draft Ordinance/
Winding Creek Village Water District/
General Obligation Bonds**

Mrs. Jennings presented for discussion and possible introduction a Draft Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,000,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WINDING CREEK VILLAGE WATER DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”. This draft ordinance provides for the issuance of up to \$2,000,000 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of the Winding Creek Village Water District Project, consisting of the (a) installation of a water main from the existing Tidewater Utilities Meadows Pump District to a master meter at the entrance to the Winding Creek Village Subdivision (that “Subdivision”), and (b) construction of a distribution system throughout the Subdivision, along with the installation of relevant valves and fire hydrants (collectively, the “Project”), with the expectation that up to \$1,000,000 of principal forgiveness will be applied in order to reduce the principal amount of the Bonds outstanding to \$1,000,000 upon Project completion.

**Winding Creek Village Water District Area/
SRF Funding and Bonding Ordinance**

Mr. Medlarz reported that, in January 2018, the Engineering Department submitted a notice of intent to the State for supplemental funding associated with the proposed Winding Creek Village Water District. On June 13, 2018, the Finance and Engineering Departments followed up by filing a funding application with the Delaware Drinking Water SRF for \$2,000,000 for the Winding Creek Village Water District Area. The request was approved by the Water Infrastructure Advisory Council and an offer has been extended to the County. The Finance and Engineering Departments recommend accepting the funding offer and issuance of the associated ordinance authorizing up to \$2,000,000 of General Obligation Bonds of Sussex County.

Introduction of Proposed Ordinance

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,000,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WINDING CREEK VILLAGE WATER DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”. The Proposed Ordinance will be advertised for Public Hearing.

**M 166 19 Approve SRF Financing Offer/
Winding Creek Water District**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering and Finance Departments, that the Drinking Water State Revolving Fund financing offer for the Winding Creek Village Water District Project be approved and the associated debt ordinance titled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,000,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE WINDING CREEK VILLAGE WATER DISTRICT PROJECT AND

(continued) **AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH” be introduced and be voted on after a requisite public hearing.**

Motion Adopted: 5 Yeas.

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

Messick Development SLD

Hans Medlarz, County Engineer, presented a request to post notices for a public hearing for the Messick Development Streetlighting District. Mr. Medlarz reported that the Engineering Department received petitions from forty-six (46) percent of the residentially improved properties within the Messick Development in favor of establishing a streetlighting district. Mr. Medlarz asked for the Council’s concurrence on holding a (non-Code required) public hearing for the proposed District with an estimated rate of \$67.50 per year, per assessable property.

M 167 19 Prepare and Post Notices for the Messick Development SLD

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Engineering Department is authorized to prepare and post notices for a Public Hearing for the Messick Development Streetlighting District creation.

Motion Adopted: 4 Yeas, 1 Nay.

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

Western Sussex Base Agreement/ Heritage Shores Inflow Study

Hans Medlarz, County Engineer, presented Amendment No. 2 to the Western Sussex Base Agreement with George Miles & Buhr for the Heritage Shores Inflow Study. Mr. Medlarz reported that, as part of the design process for the Western Sussex Area of the Sussex County Unified Sanitary Sewer District, Heritage Shores has been identified as one of the larger inflow sources and a metering and documentation study has been recommended.

M 168 19 Approve Contract Amendment/ Western Sussex Base Agreement

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 2 to the Base Engineering Contract for Western Sussex with George, Miles and Buhr, LLC be approved in the amount not to exceed \$25,000.00 for the Heritage Shores Inflow Study.

Motion Adopted: 5 Yeas.

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

Administrator's Report

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

1. County Government Day – Thursday, April 4th

The County is pleased to again sponsor the annual County Government Day on Thursday, April 4th. At 9:30 a.m., high school juniors from Sussex County Girls and Boys State will meet in the Council Chambers. A mock County Council session will occur, with the representatives assuming leadership roles. It is always an interesting experience to watch student representatives tackle County issues as presented by department heads. This program can be seen and heard on the County's website.

Infrastructure Use Agreements

John Ashman, Director of Utility Planning, presented three Infrastructure Use Agreements for Council's consideration.

Swann Cove Phase 9 Project

Mr. Ashman reported that, under a proposed agreement, Swann Cove, Phase 9, (located in the Fenwick Island Area of the Sussex County Unified Sanitary Sewer District) will connect to existing County-owned infrastructure. This agreement will allow Swan Family Limited Partnership, developers of Swan Cove, Phase 9, to connect 20.0 EDUs to the existing infrastructure in exchange for \$8,521.00.

M 169 19 Approve Infrastructure Use Agreement/ Swann Family Limited Partnership

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Swann Family Limited Partnership for a capacity allocation in the Regional Transmission System, as presented on April 2, 2019.

Motion Adopted: 5 Yeas.

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

Outer Banks Project

Mr. Ashman reported that, under a proposed agreement, the Outer Banks project (located in the West Rehoboth Area of the Sussex County Unified Sanitary Sewer District) will connect to existing County-owned infrastructure. This agreement will allow Edge Marine, LLC, developers of Outer Banks, to connect 54.0 EDUs to the existing infrastructure in exchange for \$62,967.00.

M 170 19 Approve Infrastructure Use Agreement

A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Edge Marine, LLC for a capacity allocation in the Regional Transmission System, as presented on April 2, 2019.

(continued)
Agreement
/Edge
Marine,
LLC

Motion Adopted: 5 Yeas.
**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Residence
Inn
Marriott
Project

Mr. Ashman reported that, under the proposed agreement, the Residence Inn Marriott project (located in the West Rehoboth Area of the Sussex County Unified Sanitary Sewer District) will connect to existing County-owned infrastructure. This agreement will allow Colonial Oaks Hotel II, LLC, developers of Residence Inn Marriott, to connect 82.0 EDUs to the existing infrastructure in exchange for \$51,347.00.

M 171 19
Approve
Infra-
structure
Use
Agreement/
Swann
Family
Limited
Partnership

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 "Use of Existing Infrastructure Agreement" between Sussex County and Colonial Oaks Hotel II, LLC for a capacity allocation in the Regional Transmission System, as presented on April 2, 2019.

Motion Adopted: 5 Yeas.
**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

Grant
Requests

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

M 172 19
Council-
manic
Grant

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give \$1,000.00 (\$500.00 each from Mr. Burton's and Mr. Hudson's Councilmanic Grant accounts) to Delaware Symphony Association for the Delaware Symphony Orchestra Concert Series.

Motion Adopted: 5 Yeas.
**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

M 173 19
Council-
manic
Grant

A Motion was made by Mr. Hudson, seconded by Mr. Burton, to give \$1,500.00 (\$750.00 each from Mr. Burton's and Mr. Hudson's Councilmanic Grant Accounts) to the Mid-Atlantic Symphony Orchestra Society for the Mid-Atlantic Symphony Orchestra Concert Series.

Motion Adopted: 5 Yeas.
**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
Mr. Wilson, Yea; Mr. Burton, Yea;
Mr. Vincent, Yea**

**Intro-
duction of
Proposed
Ordinances**

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-2 MEDIUM COMMERCIAL DISTRICT TO A HR-1 HIGH-DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 15.2 ACRES, MORE OR LESS” (Change of Zone No. 1882) filed on behalf of Nassau DE Acquisition Co., LLC (Tax I.D. No. 334-1.00-15.00 and 334-1.00-15.03) (911 Address: None Available). The Proposed Ordinance will be advertised for Public Hearing.

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 62, ARTICLE III, SECTION 62-7, CHAPTER 72, ARTICLE I, SECTIONS 72-4 AND 72-5, CHAPTER 115, ARTICLES IV, XXV AND TABLE 1 BY AMENDING SECTIONS 115-22, 115-25, 115-182, 115-183 AND 115-194.3 TO REPLACE ALL REFERENCES TO THE “ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT”, “ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT OVERLAY ZONE”, “ESDDOZ” AND “ENVIRONMENTALLY SENSITIVE DEVELOPING AREA” WITH “COASTAL AREA”. The Proposed Ordinance will be advertised for Public Hearing. (It was noted that this is a re-introduction; that there are minor changes to the short title of the Proposed Ordinance; and that nothing has been changed in the content of the Proposed Ordinance.)

**M 174 19
Adjourn**

At 12:11 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Hudson, 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,

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

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