

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 28, 2022**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 28, 2022, at 10:30 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>
<b>Vince Robertson</b>	<b>Assistant County Attorney</b>

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

**Call to  
Order**

**Mr. Vincent called the meeting to order at 10:52 a.m.**

**M 300 22  
Approve  
Agenda**

**A Motion was made by Mr. Hudson seconded by Mr. Rieley, to approve the Agenda 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**

**Minutes**

**The minutes of the June 21, 2022 meeting were approved by consensus.**

**Corres-  
pondence**

**There was no correspondence.**

**There were no public comments.**

**Public  
Comment**

**Mr. Lawson discussed the disposition of County owned property on what is known as the Jones Farm on Conaway Road, west of Millsboro. The County recently purchased three parcels from the Jones heirs totaling 47 acres; one parcel equaled 1.5 acres and included an old farmhouse dating back to the 1800s.**

**Disposition  
of County  
Owned  
Property**

**In lieu of keeping and maintain this property and farmhouse, it is the County's best interest to dispose of the 1.5-acre property with the structures. Mr. Lawson noted that nothing related to the farm that was purchased for the purpose of conservation is included in this sale.**

**M 301 22**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the**

**Approve the Disposition of Land**      **Sussex County Council approve the disposition of a certain piece of land with improvements located on Conaway Road west of Millsboro identified as Tax Parcel 133-18.00-2.00.**

**Motion Adopted:**      **5 Yeas.**

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

**Disposition of County Owned Property**      **Mr. Lawson reported that several years ago, the County purchased two lots outside of Millsboro on Handy Road. The purpose of purchasing these properties was for a new paramedic station. As part of the property acquisition, a home was located on the property. The home is in good shape, therefore, an RFP will be put out to the public for anyone that desires to purchase and move the house off of the property.**

**Adminis-  
trator's  
Report**      **Mr. Lawson read the following information in his Administrator's Report:**

**1. Holiday and Council Meeting Schedule**

**A reminder that County offices will be closed on Monday, July 4<sup>th</sup>, to observe the Independence Day holiday. In addition, Council will not meet on Tuesday, July 5<sup>th</sup>. The next regularly scheduled Council meeting will be held on Tuesday, July 12<sup>th</sup> at 10:00 a.m.**

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

**Public Hearing/The Estuary Phase 4 into SCUSSD**      **A Public Hearing was held on the Proposed Estuary Phase 4 Annexation of the Sussex County Unified Sanitary Sewer District. The County Council granted permission to prepare and post notices for the expansion on May 17, 2022. The Engineering Department received a request from GMB, LLC on behalf of their client, Estuary Development, LLC, the owners/developers of a project to be known as Estuary Phase 4. The request includes parcels 134-21.00-10.00, 10.01 & 11.12. The project is proposed at 115 single family homes. The project will be responsible for System Connection Charges based on current rates at that time. The Engineering Department posted notices on June 2<sup>nd</sup>, posted on the website, and advertised for the expansion on June 8<sup>th</sup> and 15<sup>th</sup>.**

**Public comments were heard.**

**Denise Garner questioned the wastewater management and where the water would be dispersed. Mr. Ashman replied that there is a pump**

station that would be located on this project, and it will be treated at the South Coastal Treatment Plant and then disposed of. Ms. Garner expressed concerns with the wetlands, buffer zones and flooding issues.

The Public Hearing and public record were closed.

**M 302 22  
Adopt  
R 007 22/  
The Estuary  
– Phase 4**

**A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt Resolution No. 007 22 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MILLER CREEK AREA, TO INCLUDE TWO TRACTS OF LAND ON BOTH SIDES OF MILLERS NECK ROAD LOCATED IN THE BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE”.**

**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/  
Affordably  
Priced  
Rental Units  
Ordinance**

**A Public Hearing was held on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45, 115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCRP) PROGRAM”.**

**Jamie Whitehouse, Planning and Zoning Director reported that the Ordinance was introduced on March 29, 2022. The first public hearing was held on April 28, 2022, before the Planning and Zoning Commission. The Commission recommended approval of the Ordinance with recommendations on June 9, 2022.**

**The Council found that Mr. Vince Robertson spoke on behalf of the Ordinance; that the Ordinance originated back in 2018 with the 2018 Comprehensive Land Use Plan; that there were a lot of goals, objectives and strategies that dealt with furthering affordable and workforce housing; that the basis for the initiative is cited in the Where As clauses of the Ordinance; that in October of 2018, Community Development and Housing developed a RFP that led to the April 2019 contract with LSA Planning that led to housing opportunities and a market evaluation; that there is a need for more affordable housing opportunities in Sussex County; that the County contracted with LSA to perform Housing Needs, Market Analysis, Economic Feasibility Analysis, Housing Opportunity and Market Evaluations; that there were three strategies in the final recommendations; that strategy one was to preserve the existing supply of affordable housing;**

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(continued)**

that strategy two was to establish a local housing trust fund; that strategy three was to modify the County Zoning Code to promote housing affordability in growth areas identified in the Comprehensive Plan; that to date, strategy one and two have been completed and work is being done on strategy three; that 12 units to the acres is already permitted within the HR Zoning Districts; that this does create new permitted uses in several of the Residential Zoning Districts; that Workforce Housing would be permitted by-right in the following Growth Areas: Coastal & Developing Areas and Town Center Area; that up to 12 units to the acre is permitted; that a map was shown displaying the locations where this could occur based on the Comprehensive Plan; that the design criteria includes at least 30% of the units must be set aside as SCRP units, perimeter buffer requirement of 100', building height can be no greater than 52' and four stories, open space of at least 50%, central water and sewer is required, interconnectivity required if neighboring commercial zone property, sidewalks on all streets and interconnected with surrounding sidewalk systems, walking and biking trails required to be interconnected and permitted in perimeter buffer, primary viewsheds of all units should be directed to open spaces and amenities and located near DART Route or planned DART Route; that housing requirements include multi-family designation and rental units only, at least 30% restricted units that average (annually) 80% of AMI or less, compliance reporting based on submitted audits & certifications and financial penalties paid to Sussex County Housing Trust Fund for noncompliance (rental units); that a map was shown outlining the current DART Route.

Mr. Whitehouse reported that a parcel of 10 acres and 30 acres were used to model the Proposed Ordinance as it was introduced to see if it viable. A conceptual drawing was shown at the Planning and Zoning hearing that was fully worked up with engineering details. The number of buildings is the same, but it was shown that if parking spaces are designed to code, the buffer and density can be achieved. The concept shown also included an amenity building that is not required in the Ordinance to be provided as part of the design requirements.

Mrs. Nauman came forward to explain the Area Median Income (AMI). The Ordinance proposes exactly what Coastal Tide, a real-world example utilizes today. The maximum income that a household can have to be eligible for SCRP program is 80% AMI. Therefore, for a two-person household, the maximum income would be \$53,800; this could be for a single parent and a child or two wage earners. She further explained that there is no federal funding involved in this project, therefore, there is a minimum income listed. The tenants are responsible to make their rent payments based on their income. The income rates are fixed at 50% so that it is affordable for the entire range of households that may qualify. Mrs. Nauman shared a graph outlining the current rates that are being charged at Coastal Tide for the 26 affordable units. The proposed rental rates are as follows: 1 bedroom \$660, 2 bedrooms \$790 and 3 bedrooms \$915. Mrs. Nauman explained that each year the rates are subject to change based on

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(continued)**

**HUD's annual income assessment.**

**It was explained that if a property is not being kept up by the owner, then it would go into building code and constable issues.**

**Mr. Robertson reviewed the recommendations that were provided by the Planning and Zoning Commission. The recommendations were as follows:**

- 1. Include "Commercial Area" for the list of appropriate areas for the Ordinance**
- 2. Reduce the Open Space requirement from 50% to 30%**
- 3. Amend the setback requirements so that if a proposed building does not exceed 42' in height, then the setback should only be 50' which is the current requirement; if the building exceeds 42', then the greater setback of 100' should apply**
- 4. Amend the DART requirement so that the development can also occur in a location where DART certifies in writing that a DART Route will be established within 3 years from the date of Final Site Plan**

**Mr. Robertson explained that a project would go before the Planning and Zoning Commission to get preliminary site plan approval without a public hearing; assuming that it meets all of the technical and staff requirements and has been through PLUS. It would then go through DeDOT, Sussex Conservation District, Fire Marshall, and any other agencies approval prior to go before the Planning and Zoning Commission for final site approval.**

**Mr. Robertson shared that there were several comments received in support of this incentive. Mr. Robertson read a letter that was received from Mr. Paradee representing developers. The letter read as follows: "I wanted to make sure that both the Planning and Zoning Commission and the County Council are aware that there is very serious interest on the part of the real estate developing community in the passage of a Workforce Housing Ordinance – indeed, I have a number of clients who would pursue projects for affordably priced housing units if such an Ordinance were to be adopted. For this reason, I wholeheartedly encourage the Planning and Zoning Commission and the County Council to proceed promptly with enactment of the proposed Ordinance regarding Affordably Priced Rental Units."**

**Mr. Robertson answered some questions that have been raised throughout this process. One comment received was a concern that the increase from 12.5% to at least 30% of restricted units will discourage developers as it reduces profit making projects financially infeasible. The SCRIP has proved to be unsuccessful for a number of reasons, mainly, because there was no guarantee of County approval and the chance of density reduction by the Planning and Zoning Commission or County Council. This Ordinance will**

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create a “by-right” approval process that eliminates the risk of disapproval and density reduction. In return, the Ordinance seeks a reasonable number of reasonable number of restricted units. That said, a reduction in the restricted units may be considered.

During the process, it was asked if the County performed a formal analysis on whether the SCRPs amendments are more likely to result in greater SCRPs development. Mr. Robertson explained that was completed, this Ordinance is the direct result of recommendations made by LSA in their Housing Opportunities and the Market Evaluation conducted in 2019.

Another concern was raised about the regulatory provisions in the Ordinance will increase the cost of building SCRPs projects. Mr. Robertson is confident that there is data that supports these being feasible. In addition, today, 2 units per acre at market rate rents. With the Ordinance, you would get 12 units per acre with 30% restricted rents. This would mean that there would be 4 units with restricted rents and 8 units with market rate rents. The total would be 6 more units per acre with market rate rents.

A question was raised about the inclusion of the UR District designation. The UR District is currently not used anywhere and the purpose of the district was to provide zoning regulations for incorporate municipalities having no zoning provisions of their own.

There were concerns raised with the residency requirement. Mr. Robertson explained that currently, Chapter 72 is worded that you have to live and work both in Sussex County to qualify for one of these units. It was discussed to remove the Sussex County work requirement so that it is not a limitation. It is being proposed to do preferences for those that live and work in Sussex County but not make it a requirement.

Another concern raised was with the regulatory requirements including setbacks and open space. This Ordinance will create a “by-right” approval that streamlines the review and eliminates the public hearing process.

A concern with the requirement for walking and biking trails in the setback was raised. This requirement can be amended to eliminate the term ‘shall’ and insert the word ‘may’.

Another topic brought up was a concern with the requirement for sidewalks on all streets with interconnectivity. This requirement can be amended and should not undermine the initiative to provide more affordable housing. Should there be an amendment, staff would like it to include sidewalks in front of all buildings with interconnectivity to parking areas and walkway systems.

There was a concern about the requirement that if you have a felony

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(continued)**

**conviction, you will not qualify for one of these units. The developer will have standards to include credit checks, and criminal background checks. It is being recommended to make the standards the same so that everyone is treated fairly.**

**Public comments were heard.**

**Ms. Jill Hicks submitted a petition with 31 signatures representing those that who could not be present today. Ms. Hicks explained that the workforce needs our help if we want them to stay and live productive and fulfilling lives.**

**Ms. Hicks thanked the Commission and Council's efforts to legislate a program that works.**

**Ms. Hicks made recommendations of which she believes will achieve a balance to provide for health, safety and welfare of the rental residents and surrounding areas. The recommendations are as follows:**

- 1. Keep the public engaged; one of the responsibilities of the Commission is to hear and consider the voice of the public regarding subdivision applications and land use. To allow the developer to construct a high-density unit in residential zones, "by-right" or without a Public Hearing is a grave mistake. Ms. Hicks agrees that the process to approve Workforce Housing should be expedited, but not in this way. She encouraged the Council to not take away the required Public Hearings.**
- 2. A DART bus stop, not just a bus route, must be no more than .5 mile from the site. Ms. Hicks stated that she was advocating that the wording be changed to explicitly require a bus stop. Sidewalks and bicycle lanes need to be provided to the bus stop. Also, street lighting needs to be provided for those who leave early in the morning and return after dark. The approval of the site plan should not be based on a promise by DART. There needs to be teeth in the Ordinance such that residential safety is never compromised.**
- 3. Regarding the building height limit, delete the words "whichever is greater". The way it is written, it allows license for the developer to exceed 52 feet on a four-story complex. Ms. Hicks stated that she believes that the height needs a cap; the way that it is currently written, there is no cap as long as there are no more than four stories.**
- 4. The setback must be at least 100 feet. Higher density means higher condensed levels of air pollution, light pollution, and noise pollution. For the same reason, the forested and/or landscaped buffer strip within the setback should be no less than 50 feet, as stated in the initial proposal.**
- 5. For the wellbeing of the residents, 50% open space should be required, as stated in the initial proposal.**

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(continued)**

6. Environmentally vulnerable areas, including but not limited to wetlands and floodplains need to be excluded, or out of play for this Ordinance.
7. Workforce housing projects should be immediately subject to the Drainage and Resource Buffer Ordinance No. 2852, passed on May 17, 2022.
8. The residents of existing affordable rental housing, whether mobile home parks, apartment buildings, or other residential dwellings must not be displaced in order to construct new workforce housing units.
9. Ms. Hicks recommended that the word “affordable” be replaced with “workforce”. Affordable housing is commonly defined as government subsidized housing such as vouchers and Title 9.

**Ms. Patricia Raheem spoke about inclusion and the lack of affordable housing available in Sussex County.**

**Ms. Patti Drago thanked those involved for their efforts in shaping this affordable rental ordinance and conveyed her support for this ordinance with some recommendations.**

**Ms. Drago discussed the key stakeholders that are involved with this affordable housing challenge. First of all, the tenants that will live in these projects and units; this ordinance needs to deliver community livability. Next, developers and property owners, it makes sense to incentive them by eliminating uncertainty, expediting review, reducing friction costs, and increasing density/scale to achieve a reasonable profit. However, she does have some concerns that too much attention in seeing how far the profit margin can be pushed as opposed to making sure that there is balance. Ms. Drago discussed points that she would consider:**

1. Developers get a lot in return for this set aside. Under current code, a 10-acre AR parcel could generate up to 24 units; under this proposal, it is possible to achieve up to 120 units, a five-fold increase.
2. Mr. Whitehouse produced an expert’s case study demonstrating the economic feasibility of projects under the requirements of this ordinance.
3. Several developers have sent letters of enthusiastic support for the amended ordinance.
4. Add that investors consider affordable housing one of the most stable asset classes in real estate given the high demand, low turnover rates, and low vacancy rates.

**Ms. Drago stated that the public is also a stakeholder. She added that a permissible use will eliminate public hearings, however, the bulk and design requirements matter to nearby residential communities. Finally, the environment is a stakeholder. She urged P&Z to work with developers undertaking these projects to retain as much as possible of our mature**



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(continued)**

**forests in the setback, buffer, and open space areas.**

**Ms. Drago explained that she supports this Ordinance subject to the following items. First, she urged the Council to clearly reframe this ordinance as a Pilot Incentive with annual reviews and a set period for full reevaluation. This includes an opportunity for public feedback, to determine whether to continue, modify or phase it out.**

**Next, she suggested creating an administrative process to permit public input along the way; do not shut out the public entirely. For example, a public notice when one of these projects is applied for and have a 14-day period for the public to submit written comments that P&Z would review and consider.**

**Third, stick to the Qualifying Land criteria devised by P&Z. Keep the projects within growth areas, and along major routes close to town centers, employment, amenities, health services and convenient to public transportation.**

**Next, do not compromise out of the gate on bulk and design standards. The drafting team thoughtfully included proposed setbacks, buffers, open space and other requirements to balance the increased density and height to create a suitable living environment.**

**Given County public policy and the density of these projects, there should be no compromise on public sewer and water.**

**Ms. Drago suggested requiring proximity to public transport be in place at final site plan approval. In addition, the proximity to transport requirement must be structured to succeed for tenants: it should be a fixed route with a fixed schedule, the distance measured should be to a bus stop, not a bus route and the walk to the bus stop must be a safe route. Ms. Drago explained that the federal guidance is actually ¼-mile to ½-mile. She believes that the distance requirement needs to be close to ¼ mile to encourage the use of public transport. In addition, consideration needs to be considered for all areas of the community as the distance within could increase walking distance. She added that she understands this requirement knocks out a good portion of the County; but the transportation burden on tenants should outweigh that.**

**Ms. Drago asked the Council to address the double-dipping. The recently established Housing Trust Fund (HTF) provide developer grants. The County should examine the pros and cons and economic rationale of permitting or not permitting developers under this Ordinance to also seek funds under the HTF or other grant programs. In addition, include provisions in all programs, including this Ordinance, making it clear as to whether they can or cannot access and stack multiple programs.**

**Public Hearing/  
Affordably Priced  
Rental Units Ordinance  
(continued)**

**Ms. Katie Millard, Director of Development & Advocacy for Sussex County Habitat for Humanity, co-chair of the Sussex Housing Groups Advocacy Committee and a renter came forward to speak. Ms. Millard discussed possible improvements to ensure that the Ordinance is successful that included:**

- **Increase public trust, certify that projects approved through this program meet all criteria for high density development as outlined in the 2018 Comprehensive Plan.**
- **Create an oversight mechanism to ensure that all buy right development meets the criteria for qualifying land as outlined in the Proposed Ordinance and the 2018 Comprehensive Plan**
- **Include a review period.**
- **Include housing vouchers as an accepted form of rental payments in the Ordinance.**
- **Extend the affordability period of each unit that is produced past 30 years.**

**Ms. Millard stated that this is a necessary and beneficial addition for the County.**

**Mr. David Chernuta stated that he is in favor of some form of the Workforce Housing program that will make it easier for the workers to live in the area and make a living in Sussex County. However, he is not in favor of any changes that will circumvent any of the Ordinance currently in place to safeguard the wellbeing of the residents and protection of our natural resources.**

**Mr. Chernuta explained that he believes there are several problems associated with the Proposed Ordinance. One of the issues is the elimination of all public hearings associated with the application process. Mr. Chernuta questioned why this process should be any different than the process required by the other types of building applications before the Commission and Council. Mr. Chernuta stated that the public hearing is one of the most important steps in the application process. During the public hearing, vital information is provided to the public and the public is allowed to offer comments and concerns regarding that particular application.**

**Mr. Chernuta discussed noise and traffic concerns that will be significant impacts to the residents and businesses nearby. With all of these impacts to consider, he believes that the public should be allowed to be part of the process to present any concerns. Mr. Chernuta requested that the current ordinance be revised to include public comment as provided with other applications made by developers.**

**Ms. Eul Lee shared that there are bidding wars that are occurring in the rental market which she believes is an issue.**

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(continued)**

**Ms. Lee discussed the Proposed Ordinance and pointed out questions that she had regarding various sections. Ms. Lee also offered some recommendations for the Proposed Ordinance.**

**Ms. Susan Petze-Roseblum expressed concerns about the Proposed Ordinance. Ms. Petze-Roseblum stated that excluding public input is a major concern for her. She understands that the by-right feature is an incentive for developers to build workforce housing that will save them time and money. However, the purpose of the public hearing is to give citizens an opportunity to give and receive information about decisions made by County Council and the Planning and Zoning Commission. For this Ordinance, she worries that by eliminating public hearings, it may allow high density apartment buildings to be built within otherwise low-density housing areas without input from residents that live in those areas.**

**In addition, she has environment concerns; she is not able to find anything in the Ordinance restricting building in environment sensitive areas. If this Ordinance does go through, she believes that it must exclude environmental sensitive areas including but not limited to wetland areas and flood plains and be subject to the new buffer ordinance.**

**Mr. Kevin Gilmore, Sussex County Habitat for Humanity CEO gave his appreciation for addressing this issue. The need for affordable housing is so clear. He believes that this Ordinance is an important step towards tackling the affordable housing crisis in Sussex County. The need is too great to do nothing, and it is time to get started. He encouraged the Council to pass this Ordinance to keep the ball rolling towards the goal of affordable housing.**

**Mr. Rich Borasso representing SARG thanked the County in terms of the work that has been done in such short order to get where we are today. He added that SARG supports the continuous of public hearings. He asked Council to consider the impact that public hearings have to the other stakeholders. Mr. Borasso spoke about the uncertainty factor and removing that from the time lang that it takes for projects.**

**Mr. Matthew Padron representing The Commonwealth Companies spoke in favor of the Proposed Ordinance. His company focuses on building affordable housing and is interested in pursuing new opportunities in Sussex County. He added that he was pleased to see the Planning and Zoning Commission vote to advance this Ordinance forward and encourage the Council to vote to pass the Proposed Ordinance. He added that his organization will make immediate provisions to pursue new affordable housing opportunities should this Ordinance pass.**

**The Public Hearing was closed.**

**M 303 22  
Leave**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to leave the public record open for two weeks for written comments only.**

**Record**

**Open/Proposed**

**Motion Adopted: 5 Yeas**

**Ordinance/  
Affordable  
Housing**

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

**M 304 22  
Defer Action  
Affordably  
Priced  
Rental Units  
Ordinance**

**A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to defer action on a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72, ARTICLE II, SECTIONS 72-16 THROUGH 72-28 AND CHAPTER 115, ARTICLE IV, V, VI, VII AND VIII SECTIONS 115-20, 115-25, 115-29, 115-34, 115-37, 115-42, 115-45, 115-50, 115-53 AND 115-58 REGARDING AFFORDABLY PRICED RENTAL UNITS AND THE SUSSEX COUNTY RENTAL UNIT (SCRIP) PROGRAM” with the amendment to keep the record open for 2 weeks for written comments only.**

**Motion Adopted: 5 Yeas**

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

**ARPA  
Grant  
Awards**

**Mrs. Jennings presented the American Rescue Plan grant awards for Council consideration. Mrs. Jennings, Brandy Nauman, Lori Webb, and Andrea Wall all assisted with going through the applications that were received.**

**Mrs. Jennings reminded Council that a total of \$45.5 million in direct appropriation was received from the U.S. Treasury over a 2-year period beginning in 2021. In March, a presentation was given outlining what the funds could be used for and a recommendation on how to proceed with allocating these funds. She added that there are only certain items that these funds can be spent on. These items include 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, and invest in water, sewer, and broadband infrastructure.**

**Mrs. Jennings reviewed the goals of her recommendations for the funding. She reported that today, two of those items, the first round of affordable housing application totaling \$3 million and the large grants for the other non-profit entities such as the hospitals totaling \$5 million will be presented.**

**Mrs. Jennings shared 14 applications were received for the non-profit**

**ARPA  
Grant  
Awards  
(continued)**

**grant program totaling \$12.5 million in requests. For the affordable housing application, there were 13 applications received totaling \$6 million in requests.**

**Mrs. Jennings reviewed the evaluation criteria used for the application recommendations.**

**Mrs. Jennings explained that if the application received 80 points or higher in their evaluation, then a recommendation is being made to award funds. The recommendations for the non-profit applications are as follows:**

- Bayhealth (\$615,000) – Medical equipment for new emergency room**
- Beebe (\$750,000) – Rural health care, social service connection to build public health capacity and address the rural workforce needs**
- Children’s Beach House (\$570,000) – Expansion of its youth development program to provide year-round programming for 100 children**
- Community Resource Center (\$500,000) – Keep low-income individuals and families stably housed by preventing eviction and utility disconnects**
- Easter Seals (\$665,000) – Replace outdated and inefficient HVAC system at their Georgetown facility**
- Montessori Works (\$950,000) – Renovate the campus barn to provide space for remedial education, social and emotional assistance, and health screenings – facility to be used for the community, not just the school**
- Tidal Health (\$950,000) – Provide wrap around services that address social drivers of health and expand health care delivery and access in rural, low-income communities of disadvantaged populations**

**Mrs. Jennings explained that the funding amount is based off of the request and if it was eligible for ARPA funds.**

**For the affordable housing grant program, the eligible uses and restrictions were to provide funding for projects that assist individuals making less than 65% AMI. The projects must have deed restrictions that are 20 years for homeownership and 30 years for rental. The funding level for these applications was \$500,000 per project or \$50,000**

**ARPA  
Grant  
Awards  
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**per unit with a cap of \$500,000.**

**There were 13 applications that were received; the criteria used for the evaluation process was reviewed. The applications that received 42 points or higher in their evaluation were:**

- Better Homes of Seaford (\$500,000) – 36 rental housing units for the elderly in Seaford**
- Milford Housing Development Corp. (\$500,000) – 20 homeownership units in Lewes**
- Milford Housing Development Corp. (\$500,000) – 10 homeownership units in Greenwood**
- Millsboro Housing for Progress (\$500,000) – Rehabilitation of 38 rental units in Millsboro**
- Sussex County Habitat for Humanity (\$500,000) – 10 homeownership units throughout the County**

**Mrs. Jennings noted that the full \$3 million was not spent due to an application being pulled out last night because their annexation request was not granted.**

**M 305 22  
ARPA  
Grant  
Awards  
Approval**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson that the Sussex County Council approve the County entering into individual grant agreements with the entities as presented – contingent on the entities meeting all requirements to be awarded ARAP funds.**

**Motion Adopted: 5 Yeas**

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

**Permission  
to Prepare  
& Post  
Notices/May  
Apple Farm  
Into  
SCUSSD**

**John Ashman, Director of Utility Planning and Design Review presented a request to prepare and post notices for Mayapple Farm Annexation into the Sussex County Unified Sanitary Sewer District (Bay View Estates Area) for Council’s consideration. The Engineering Department received a request from GMB, LLC on behalf of their client Mayapple Farm, LLC the owners/developers of a project to be known as Mayapple Farm. The request includes parcel 533-19.00-289.05. The project is proposed at 41 single family homes under a condo regime on 20.91 acres. The project will be responsible for System Connection Charges of \$6,600 per EDU based on current rates. The Engineering Department would like to request permission to prepare and post notices for a Public**

**Hearing on the annexation of this area.**

**M 306 22  
Approve  
Prepare &  
Post Notice/  
Mayapple  
Farm**

**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 Mayapple Farm expansion into the Sussex County Unified Sanitary Sewer District to include parcel 533-19.00-289.05 located along Williamsville Road 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**

**Airport  
Hangar  
Lease &  
Specialized  
Aviation  
Service  
Agreement**

**Robert Bryant, Airport Manager presented a lease and specialized aviation service operations agreement with Ocean Aviation for Council's consideration. Mr. Bryant explained that this is a result of an advertised RFP seeking a tenant to lease a recently vacated aircraft hanger and to provide flight training services at the airport. There was only one RFP received from Ocean Aviation.**

**M 307 22  
Approve  
Airport  
Hangar &  
Specialized  
Aviation  
Agreement**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley that be it moved based on the recommendation of the Sussex County Engineering Department that the Sussex County Council authorize the Council President to execute a hangar lease and specialized aviation service operations agreement between Sussex County and Ocean Aviation for Lot C and include all improvements on said Lot C within terms 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**

**Compre-  
hensive  
Land Use  
Plan Annual  
Report**

**Jamie Whitehouse, Planning and Zoning Director, presented the annual update to the Office of State Planning and Coordination on the Comprehensive Plan. The Comprehensive Plan was completed by the County in 2018 and certified by the Governor in March 2019; this is the third annual report for the current Comprehensive Plan Update.**

**Mr. Whitehouse reported that the total amount of new open space created during this year's review period would be 453 acres which is an increase from 362 acres in the previous year. (The full report was included in the Council packets for this meeting.)**

**M 308 22  
Approve  
Compre-  
hensive  
Land Use  
Plan Annual  
Report**

**A Motion was made by Mr. Schaeffer, seconded Mr. Hudson, that the Sussex County Council approve this year's report to the Governor's Advisory Council on Planning.**

**Motion Adopted: 5 Yeas**

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

**Old  
Business/  
Henlopen  
Properties,  
LLC/CZ  
1967 & 1968  
& CU 2334**

**Under Old Business, Jamie Whitehouse, Planning and Zoning Director reported that there were three items that all relate to a group of applications that were considered by County Council during a Public Hearing held on April 26, 2022, at which time action was deferred. On May 24, 2022, the Council closed the Public Record on all three applications.**

**The applications include Change of Zone No. 1967, Change of Zone No. 1968 and Conditional Use No. 2334 all filed on behalf of Henlopen Properties, LLC.**

**Mr. Vincent explained that information has been received from the applicant and the Lewes Board of Public Works about water runoff and wells. Mr. Vincent requested that Hans Medlarz, County Engineer explain his views on the information received.**

**Mr. Moore pointed out that what is being discussed today are items that are currently in the record. There will be no new information brought in since the record has been closed.**

**Hans Medlarz, County Engineer reported that the Engineering Department reviewed the documentation submitted for the record associated for the applications. In addition, he did speak with a representative from Conservation District and DNREC.**

**Mr. Medlarz explained that two review criteria were considered, recharge quantity and post development water quality. Mr. Medlarz stated that he feels relatively comfortable with recharge with proper precaution during construction. He then explained that the quality side which is more complex.**

**In summary, the Engineering Department offers the following options for Council's consideration:**



**Old  
Business/  
Henlopen  
Properties,  
LLC/CZ  
1967 & 1968  
& CU 2334  
(continued)**

- **Provide independent specialized inspection services during construction of the infiltration facility.**
- **Incorporate an ephemeral wetland forebay or bioswale in the infiltration design.**
- **Provide a security, held by the Sussex Conservation District in the amount equal to the 10-year operation & maintenance expense for the infiltration facility as determined by the Sussex Conservation District.**
- **Install two 4-inch monitoring wells downstream of the infiltration facility with perpetual access rights for the utility.**
- **Contract with a certified laboratory to analyze groundwater quality prior to any land disturbing activity and each year thereafter for a period of five-years or final County acceptance whatever date comes later for the following classes of substances regulated under the National Preliminary Drinking Water Regulations:**
  - a. **Inorganic chemicals (§ 141.11)**
  - b. **Organic chemicals (§141.12)**
  - c. **Volatile organic contaminants (§141.61)**
- **Incorporate a first flush sand filtration component in the stormwater conveyance design for the imperious areas utilized by vehicular traffic.**
- **Obtain a Sussex County Engineering Department permit for the first flush sand filtration component of the stormwater conveyance system.**

**Grant  
Requests**

**Mrs. Jennings presented grant requests for Council’s consideration.**

**M 309 22  
Town of  
Georgetown**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$5,000 (\$2,905 from Mr. Rieley’s Councilmanic Grant Account and \$2,095 from Mr. Vincent’s Councilmanic Grant Account) to the Town of Georgetown for electric scooters.**

**Motion Adopted: 5 Yeas**

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

**M 310 22  
Eastern  
Shore  
AFRAM**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$1,000 (\$1,000 from Mr. Vincent’s Councilmanic Grant account) to Eastern Shore AFRAM Festival for festival expenses.**

**Motion Adopted: 5 Yeas**

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

**Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 311 22**      **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to give**  
**Harry K**      **\$5,555 (\$1,355 from Mr. Vincent's Councilmanic Grant and \$4,200 from**  
**Foundation**      **Mr. Hudson's Councilmanic Grant Account) to Harry K Foundation for**  
                         **Desert Oasis Feeding Program.**

**Motion Adopted:      5 Yeas**

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

**Introduction**      **Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE**  
**of Proposed**      **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**  
**Ordinances**      **AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY**  
                         **DWELLINGS (48 UNITS) TO BE LOCATED ON A CERTAIN PARCEL**  
                         **OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX**  
                         **COUNTY, CONTAINING 7.01 ACRES, MORE OR LESS"**

**Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE**  
**TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**  
**AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE OF**  
**HVAC SUPPLY INVENTORY AND COMPANY VEHICLES AND**  
**TRAILERS TO BE LOCATED ON A CERTAIN PARCEL OF LAND**  
**LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY,**  
**CONTAINING 1.0 ACRES, MORE OR LESS"**

**Mr. Schaeffer introduced a 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"**

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

**Council**      **Mr. Vincent commented about the fee increases that were voted on last**  
**Member**      **week. He explained that there is no increase in fees for any single-family**  
**Comments**      **dwelling building permit.**

**M 312 22**      **At 2:24 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson to**  
**Go Into**      **recess the Regular Session, and go into Executive Session for the purpose of**  
**Executive**      **discussing matters relating to land acquisition and collective bargaining.**  
**Session**

**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 2:35 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to land acquisition and collective bargaining. The Executive Session concluded at 3:00 p.m.**

**M 313 22 Reconvene**      **At 3:03 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to reconvene.**

**Motion Adopted:      5 Yeas**

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

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

**M 314 22 Adjourn**      **A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to adjourn at 3:04 p.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,**

**Tracy N. Torbert  
Clerk of the Council**

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