

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 2, 2020**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 2, 2020, at 10:00 a.m., by teleconference with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>Irwin G. Burton III</b>	<b>Vice President</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>John L. Rieley</b>	<b>Councilman</b>
<b>Samuel R. Wilson Jr.</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 188 20  
Approve  
Agenda**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, 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  
Approved**

The minutes of May 19, 2020 were approved by consent.

**Public  
Comments**

A public comment period was held and the following spoke: Paul Reiger and Dan Kramer.

**Consent  
Agenda**

In regard to the Consent Agenda items, Mr. Burton stated that he had questions about Consent Agenda No. 1. For this reason, Consent Agenda No. 1 was pulled.

**M 189 20  
Approve  
Consent  
Agenda  
(Items  
2 – 5)**

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

- 2. Use of Existing Wastewater Infrastructure Agreement, Hyatt Hotel  
Hyatt Hotel, Lewes Hotel, LLC**
- 3. Use of Existing Wastewater Infrastructure Agreement, IUA1026  
Tidalwalk, Phase 2, EVG-FT Ventures, LLC**

**M 189 20  
(continued)**

- 4. Use of Existing Wastewater Infrastructure Agreement, IUA1132  
Lewes Crest, The Evergreene Companies, LLC**
- 5. Use of Existing Wastewater Infrastructure Agreement, IUA968  
Oyster Cove, Old Orchard Ventures, LLC**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Consent  
Agenda  
Item  
No. 1**

**Mr. Burton raised questions regarding Consent Agenda Item No. 1 – Use of Existing Wastewater Infrastructure Agreement, IUA1091, Wellesley, Wellesley Rehoboth, LP, and specifically about four (4) properties in the area that are not served by sewer. Hans Medlarz, County Engineer, responded to Mr. Burton’s questions.**

**M190 20  
Approve  
Consent  
Agenda  
Item  
No. 1**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to approve Consent Agenda Item No. 1.**

**Motion Adopted: 5 Yeas.**

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

**County  
COVID-19  
Update**

**Mr. Lawson provided a COVID-19 County Update which included the following information: the Governor’s rolling reopening of the State and Phase 1 guidelines which began June 1; State of Delaware – CAREs Act Funding; outdoor seating expansion (part of the State’s Phase 1 re-opening) and the County’s role in processing requests for expanded seating; Sussex marketing advertisement (marketing/branding campaign launched last week); and County operations (recommendation for future opening of County offices and for holding public hearings in Council Chambers). Discussion included the cost of advertising and the possibility of expanding advertising to print and radio, and requirements that must be met to hold public hearings in Council Chambers.**

**Adminis-  
trator’s  
Report**

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

**1. Projects Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheets, the following projects received Substantial Completion. Tidewater Landing – Phase 1B effective May 14 and The Villages at Red Mill Pond South – Phase 1 (Construction Record) effective May 18th.**

(continued) [Attachments to the Administrator’s Report are not attachments to the minutes.]

**State of Delaware MOU/ Dog Control Enforcement**

Mrs. Jennings reported on a Memorandum of Understanding between the Division of Public Health, Delaware Department of Health & Social Services, State of Delaware and Sussex County for the enforcement of dog control and dangerous dog statutes. This agreement was first entered into in December 2015 at which time dog control was transferred from the County’s authority to the Office of Animal Welfare. The State of Delaware’s authority of dog control was later formalized in Delaware Code in 2017, which moved the responsibility of dog control from Title 9 to Title 16. Thereafter, the State of Delaware reached out to the County to sign an updated MOU to reflect the current funding relationship. The difference between the 2015 MOU and the new MOU is that the 2015 agreement referenced developing a pricing structure for future years; this pricing structure was agreed to in 2017. The pricing structure is based on a per capita distribution among the three counties and the City of Wilmington. The amount stated in the new MOU is what was agreed to in 2017 and paid in FY 2020; there is no increase for these services in FY 2021. Mrs. Jennings reported that Brandywine SPCA is contracted by the State of Delaware to provide dog control services. Walter Fenstermacher, Director of Administration, Brandywine Valley SPCA (BVSPCA), was present by teleconference. Mr. Fenstermacher spoke regarding services provided by the BVSPCA, achievements, financial position and investment in Delaware, work they provide beyond the contract with the State, and their investment in Delaware (local animal shelters, low-cost veterinary services and a rescue center).

**M 191 20 Authorize MOU/ Dog Control Enforcement**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council authorizes Administration to enter into a Memorandum of Understanding with the State of Delaware to enforce dog control and dangerous dog statutes, as presented.

**Motion Adopted: 4 Yeas, 1 Not Voting.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Not Voting; Mr. Burton, Yea; Mr. Vincent, Yea**

**Western Sussex Transmission Facilities**

Hans Medlarz, County Engineer, updated the Council on various Western Sussex Transmission Facilities Contracts.

**Contract 1: Route 13 Forcemain – Final Balancing Change Order and Substantial Completion**

**M 192 20 Approve C/O for Contract 1**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Final Balancing Change Order 2 for Contract 18-12, Western Sussex Transmission Facilities, Contract 1, Route 13 Force Main, be approved,

**M 192 20**  
**(continued)**            **increasing the Contract by \$26,486.65 and that Substantial Completion be granted and any held retainage be released in accordance with the Contract documents.**

**Motion Adopted:     5 Yeas.**

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

**Western  
Sussex  
Trans-  
mission  
Facilities**

**Contract 2: Market Street Gravity Sewer - Balancing Change Order and Substantial Completion**

**M 193 20**            **A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the**  
**Approve**            **recommendation of the Sussex County Engineering Department, that the**  
**C/O for**            **Final Balancing Change Order 2 for Contract 18-12, Western Sussex**  
**Contract 2**        **Transmission Facilities, Contract 2, Market Street Gravity Sewer, be**  
                         **approved, decreasing the Contract by \$128,708.70 and that Substantial**  
                         **Completion be granted and any held retainage be released in accordance**  
                         **with the Contract documents.**

**Motion Adopted:     5 Yeas.**

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

**Western  
Sussex  
Trans-  
mission  
Facilities**

**Contract 4: Pump Stations - Project S19-28 – Change Order**

**M 194 20**            **A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon**  
**Approve**            **the recommendation of the Sussex County Engineering Department, that**  
**C/O for**            **Change Order No. 1 for Contract S19-28, Western Sussex Transmission**  
**Contract 4**        **Facilities, Contract 4, Pumping Stations, be approved, increasing the**  
                         **Contract by \$40,045.00 for a new Contract total of \$3,276,984.00.**

**Motion Adopted:     5 Yeas.**

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

**Western  
Sussex  
Trans-  
mission  
Facilities**

**Concord Road/Route 13 Utility Upgrade – Stand-alone Contract Continuation Purchase Order**

**M 195 20**            **A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon**  
**Approve**            **the recommendation of the Sussex County Engineering Department, that**  
**Contract**            **Council issue a Stand-Alone Contract Continuation Purchase Order to**  
**Contin-**            **Zack Excavating, Inc., in the not to exceed amount of \$794,338.20, for**  
**uation**            **completion of the sewer extension across the northern portion of the Route**

**M 195 20**      **13 Corridor at the unit prices originally bid as part of Contract 15-03, Concord Rd. RT 113**

**Utility Upgrade**      **Motion Adopted:      5 Yeas.**

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

**Artesian Wastewater Management/ Bulk Services Agreement**      **Hans Medlarz, County Engineer, presented Addendum No. 3 to the 2016 Bulk Wastewater Services Agreement with Artesian Wastewater Management, Inc. Mr. Medlarz stated that the addendum deals with an unanticipated imbalance in flows. The original agreement requires a true up of the flow balance at the end of each fiscal year and it is believed the imbalance can easily be corrected by delaying the true up until the end of Fiscal Year 2021. The Engineering Department is requesting Council's approval of Addendum No. 3 formalizing that arrangement.**

**M 196 20**      **A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon Approve Addendum/ Artesian Wastewater Management/ Bulk Services Agreement**

**Motion Adopted:      5 Yeas.**

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

**Property Maintenance Update and Proposed Ordinances**      **Michael Costello, Government Affairs Manager, and Lester Shaffer, Chief Constable, gave a presentation on a proposal to change portions of Chapter 80 and 115 as it relates to property maintenance. They discussed property maintenance complaints and enforcement; problems encountered using the County's current Code; inspection activity from 2016 to 2019 (vehicles, trash, tall grass); existing compliance timeline; abatement process; and costs to service non-complying properties, ordered demolitions, and recording fees for liens. They stated that the compliance period may be too long for some conditions; that court actions may prolong the issue; that property service can be costly and time consuming; that chronic violators know the system; that recovering abatement costs through the current process is restrictive; and that there is the perception that the County's actions are ineffective at times.**

**Mr. Costello referenced House Bill 118, which was passed in January 2020, authorizing Sussex County to adopt a civil ticketing program; New Castle County and Kent County both previously received this authorization.**

**Property Maintenance Update and Proposed Ordinances (continued)**

**Mr. Costello stated that County Attorneys have drafted proposed changes to the Sussex County Code that would provide the mechanism for better enforcement without an over-reaching effect and that would bring problem properties into compliance and still allow due process for property owners who desire to have their matter heard. Mr. Costello explained that the draft ordinances, if adopted, will make compliance periods realistic for the violation; remove matters from the Criminal Justice system, make the notification service/process less restrictive and costly, simplify recovering abatement costs, allow for due process in a timely manner, and allow compliance to be achieved much faster.**

**Introduction of Proposed Ordinances**

**Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 80 (“LOT MAINTENANCE”) OF THE CODE OF SUSSEX COUNTY RELATING TO LOT MAINTENANCE, INCLUDING THE ADOPTION OF ENFORCEMENT AND PENALTY PROVISIONS PURSUANT TO TITLE 9, CHAPTER 72 OF THE DELAWARE CODE”.**

**Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 52 OF THE CODE OF SUSSEX COUNTY GRANTING THE BOARD OF ADJUSTMENTS AND APPEAL AUTHORITY TO HEAR APPEALS OF VIOLATIONS UNDER CHAPTER 80 (“PROPERTY MAINTENANCE CODE”) AND CHAPTER 115 (“ZONING”), ARTICLE XXV (“SUPPLEMENTARY REGULATIONS”), §115-191 AND ITS SUBSECTIONS PERTAINING TO VEHICLES AND TRAILERS AND PROHIBITED ACCUMULATIONS”.**

**Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, “SUPPLEMENTARY REGULATIONS”, §§ 115-191 THROUGH 115-191.8 OF THE CODE OF SUSSEX COUNTY RELATING TO “PARKING, STORING AND MAINTAINING VEHICLES AND TRAILERS” AND PROHIBITED ACCUMULATIONS”, INCLUDING THE ADOPTION OF ENFORCEMENT AND PENALTY PROVISIONS PURSUANT TO TITLE 9, CHAPTER 72 OF THE DELAWARE CODE”.**

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

**Grant Requests**

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

**M 197 20 Countywide Youth Grant**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give \$5,000.00 from Countywide Youth Grants to the Harry K. Foundation for the Halt Hunger Program.**

**Motion Adopted: 4 Yeas, 1 Not Voting.**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Not Voting; Mr. Burton, Yea; Mr. Vincent, Yea**

**M 198 20 Councilmanic Grant**      **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$3,500.00 from Mr. Burton's Councilmanic Grant Account to the Partnership for the Delaware Estuary for the Mispillion and Cedar Creek Watershed and Ecotourism Investment Strategy.**

**Motion Adopted:      5 Yeas.**

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

**M 199 20 Councilmanic Grant**      **A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$15,000.00 from Mr. Wilson's Councilmanic Grant Account to the Georgetown Historical Society for carriage buildings.**

**Motion Adopted:      5 Yeas.**

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

**M 200 20 Go Into Executive Session**      **At 12:08 p.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session to discuss matters relating to land acquisition and pending litigation.**

**Motion Adopted:      5 Yeas.**

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

**Executive Session**      **At 12:11 p.m., an Executive Session of the Sussex County Council was held by teleconference for the purpose of discussing matters relating to land acquisition and pending litigation. The Executive Session concluded at 12:57 p.m.**

**M 201 20 Reconvene Regular Session**      **At 1:01 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Burton, to come out of Executive Session and reconvene the Regular Session.**

**Motion Adopted:      5 Yeas.**

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

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

**M 202 20 Adjourn**      **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to adjourn at 1:02 p.m.**

**M 202 20  
(continued)**

**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.}*