

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 28, 2020**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 28, 2020, at 10:00 a.m., in Council Chambers, 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 286 20  
Approve  
Agenda**

**A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to approve the Agenda, as posted.**

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

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

**Minutes**

**The minutes of July 14, 2020 were approved by consent.**

**Corre-  
spondence**

**Mr. Moore reported that correspondence was received from Nanticoke Senior Center. Mr. Rieley reported that correspondence was received from The Godwin School.**

**Public  
Comments**

**Public comments were heard and the following spoke: Dan Kramer.**

**M 287 20  
Approve  
Consent  
Agenda**

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

- 1. Use of Existing Wastewater Infrastructure Agreement, IUA974-1  
H&D Townhouses – H&D Subdivision, LLC**
- 2. Use of Existing Wastewater Infrastructure Agreement  
Hyatt Hotel – Lewes Hotel LLC (revised)**

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

**M 287 20  
(continued)**

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

**Retiree/  
EMS  
Director**

**The Council recognized EMS Director Robert A. Stuart, who is retiring on July 31, 2020 after 29 years of service to Sussex County.**

**New Airport  
Manager**

**Mr. Lawson introduced the new Airport Manager, Robert L. Bryant.**

**Public  
Hearing/  
Proposed  
Ordinance/  
GOBs/  
Land  
Conser-  
vation/  
Water  
Quality  
Project**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$5,744,784 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE LAND CONSERVATION/WATER QUALITY PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.**

**This Ordinance provides for the issuance of up to \$5,744,784 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 Land Conservation/Water Quality Project, consisting of the (a) acquisition of fee simple interest in a forested parcel (Comfort Burton Property) located in the headwaters of Guinea Creek; (b) enhancement of biodiversity of the site; (c) restoration of elements of a first order stream, including wetlands creation; and (d) reforestation of tillable land located primarily in the Herring Creek/Rehoboth Bay sub-watershed.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 288 20  
Adopt  
Ordinance  
No. 2726**

**A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to Adopt Ordinance No. 2726 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$5,744,784 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE LAND CONSERVATION/WATER QUALITY PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.**

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

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

**M 289 20  
Approve  
Conser-  
vation  
Agreement**

**A Motion was made by Mr. Rieley, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department and Finance Department, that the Conservation Agreement associated with the Land Conservation Loan Sponsorship Program under the Clean Water State Revolving Fund be approved in principle.**

**M 289 20  
(continued)**

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

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

**Board  
Appoint-  
ment**

**Mr. Lawson reported on a Building Code Appeal Board (Board of Adjustments and Appeals) appointment that needs to be addressed.**

**M 290 20  
Approve  
Appoint-  
ment to  
Building  
Code  
Appeal  
Board**

**A Motion was made by Mr. Wilson, seconded by Mr. Rieley, that the Sussex County Council approves the reappointment of Kevin Pritchett to the Sussex County Building Code Appeal Board (Board of Adjustments and Appeals), effective immediately, until such time as the term expires in June 2024.**

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

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

**Adminis-  
trator's  
Report**

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

**1. Dickson and Riley Property Purchase**

**On June 30, 2020, Sussex County settled with the Dickson and Riley families for the purchase of a certain piece of property identified as Tax ID 234-11.00-56.11 for a purchase price of \$970,000. The property is located on the southeast corner of John J. Williams Highway (Rt. 24) at the headwaters of Herring Creek. The County Council purchased this property due to its exceptional environmental value to the Inland Bays and to preserve additional open space. Since the property acquisition was previously discussed by Council in Executive Session, the Attorney General's office has advised the County that it should disclose the identity of the property when the need for confidentiality has ended. Today's announcement follows the Attorney General's guidance.**

**2. Projects Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheets, Swann Cove West – Phase 9 and Americana Bayside – Weideman Parcel – Phase 1A (Plan Review and Construction) received Substantial Completion effective July 22<sup>nd</sup> and July 24<sup>th</sup> respectively.**

**3. Delaware State Police Activity Report**

**The Delaware State Police year-to-date activity report for June 2020 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition,**

**Administrator's Report (continued)**

**DUI and total vehicle crashes investigated are listed. In total, there were 194 troopers assigned to Sussex County for the month of June.**

**4. Council Meeting Schedule**

**A reminder that Council will not meet on Tuesday, August 4th. The next regularly scheduled Council meeting will be held on August 11<sup>th</sup> at 10:00 a.m.**

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

**Public Hearing/ Herola Expansion of the SCUSSD**

**A Public Hearing was held on the Proposed Herola Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). The proposed expansion includes a parcel along Route 24, John J. Williams Highway, near the Beebe Cancer Center. The Engineering Department received a request from Davis Bowen & Friedel on behalf of their client, OA Rehoboth, LLC, the owners/developers of a project known as Lands of Herola Family LLC on Parcel No. 334-12.00-127.01. The expansion would consist of 18.793 acres more or less. The project will be responsible for System Connection Charges of \$6,360.00 per EDU based on current rates. To date, no comments have been received either in support of or in opposition to the proposed annexation.**

**[Mr. Burton joined the meeting during this Public Hearing.]**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 291 20  
Adopt  
R 007 20**

**A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to Adopt Resolution No. R 007 20 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE PARCEL 334-12.00-127.01 ON THE SOUTH SIDE OF JOHN J. WILLIAMS HIGHWAY. THE PARCEL IS LOCATED IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE" (HEROLA EXPANSION).**

**Motion Adopted: 5 Yeas.**

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

**Public Hearing**

**A Public Hearing was held on the Proposed Ocean Park Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). The proposed expansion includes parcels on the corner of Plantation Road and Cedar Grove Road. The Engineering Department received a request from**

**Public Hearing/  
Ocean Park  
Expansion  
of the  
SCUSSD**

**Davis Bowen & Friedel on behalf of their client, HKLS, LLC, the owners/developers of a project known as Ocean Park on Parcel Nos. 334-12.00-50.00 & 51.00. The expansion would consist of 5.482 acres more or less and has received preliminary site plan approval. The project will be responsible for System Connection Charges of \$6,360.00 per EDU based on current rates. To date, no comments have been received either in support of or in opposition to the proposed annexation.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 292 20  
Adopt  
R 008 20**

**A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to Adopt Resolution No. R 008 20 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) TO INCLUDE PARCELS 334-12.00-50.00 AND 51.00 ON THE SOUTH SIDE OF PLANTATION ROAD. THE PARCELS ARE LOCATED IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE” (OCEAN PARK EXPANSION).**

**Motion Adopted: 5 Yeas.**

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

**Discussion/  
Proposed  
Ordinance/  
Issuance  
of GOBs/  
Refunding  
of Prior  
Debt and  
Financing  
Sewer  
System  
Improve-  
ment  
Projects**

**Mrs. Jennings presented a Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$100,000,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH (A) THE REFUNDING OF PRIOR DEBT OF THE COUNTY WHICH WILL RESULT IN DEBT SERVICE SAVINGS AND (B) THE FINANCING OF SEWER SYSTEM IMPROVEMENT PROJECTS; AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”. Mrs. Jennings discussed current bond refunding opportunities along with additional financing for the County’s wastewater capital projects. She noted that because interest rates are favorable and the County recently had an upgrade to its bond rating, it is prudent that the County refund the eligible bonds in connection with the issuance of new debt for comprehensive upgrades to the County’s regional wastewater treatment facilities. The public bond issuance will not exceed \$100 million. The bond issue is made up of \$55.5 million of the refunding of previous sewer debt and \$42.6 million of new debt for treatment plant improvements. The refunding of the \$55.5 million is anticipated to have a net present value savings of \$10.1 million; this savings would be passed on to the County’s sewer customers over time through their annual sewer assessment fees. Lester Guthorn of Public Advisory Consultants, the County’s financial advisor, was also in attendance. Mr. Guthorn discussed the refunding, public bond sale and how the process**

(continued) works.

**Introduction of Proposed Ordinance** Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$100,000,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH (A) THE REFUNDING OF PRIOR DEBT OF THE COUNTY WHICH WILL RESULT IN DEBT SERVICE SAVINGS AND (B) THE FINANCING OF SEWER SYSTEM IMPROVEMENT PROJECTS; AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

The Proposed Ordinance will be advertised for Public Hearing.

**DelDOT MOU Revision** Vince Robertson, Assistant County Attorney, and Jamie Whitehouse, Planning and Zoning Director, were present with Todd Sammons of Delaware Department of Transportation (DelDOT) to discuss the DelDOT Memorandum of Understanding (MOU). Mr. Robertson referenced the public hearings held by the Planning and Zoning Commission and the Sussex County Council and stated that, as a result of public input received at those hearings, the MOU was reorganized and revised. Mr. Robertson noted that DelDOT was involved in that process. Mr. Robertson discussed highlights of the MOU: (1) it provides more up-to-date definitions, (2) reorganizes the MOU into a more user friendly format, and (3) promotes a better and more usable exchange of information. It was noted that this MOU: (1) states that a public hearing will not be held when a TIS is required but not yet received by the County, (2) it spells out that if the traffic impact on a development or land use application is major, a TIS is required but it also states that in any case, the County has the ability to require a TIS, (3) provides better coordination with the County, the Developer and DelDOT (and the County is invited to participate in conversations between the Developer and DelDOT), (4) spells out that the County is to be advised if DelDOT has a phasing recommendation for road improvements, (5) promotes a more regular exchange of information about roads generally, and (6) includes Level of Service requirements. Council members discussed the MOU with Mr. Robertson, Mr. Whitehouse and Mr. Sammons.

It was noted that numerous public comments were received and have been made a part of the record.

Public comments were heard.

Rich Borasso of Sussex Alliance for Responsible Growth (SARG) discussed and submitted an updated position paper on SARG’s review and recommendation on the recent MOU revisions.

There were no additional public comments.

No action was taken.

**Nuvision Agreement/Georgetown Fiber Ring**      **Dwayne Kilgo, Information Technology Director, reported that, in January 2020, Sussex County acquired the Georgetown Fiber Ring (purchased from Broad Valley). In that acquisition agreement, it was requested that Broad Valley Micro Fiber Networks, Inc. and their sister company, Nuvision, continue to offer broadband services to existing customers using their broadband services. This proposed Agreement allows Nuvision to continue offering broadband services to existing customers while also monitoring and supporting the entire seven-mile fiber ring with a trade-off of allowing Nuvision to utilize six (6) strands of the 144 strands of fiber purchased by the County in that acquisition. While also using the six (6) strands, Nuvision will pay Sussex County for a co-location of their infrastructure in the County's data center and be involved in revenue sharing of all sales generated for broadband services. This would serve as a potential income stream for the County and would represent another step and public offering in the County's larger broadband expansion initiative.**

**M 293 20 Approve Agreement with Nuvision/Georgetown Fiber Ring**      **A Motion was made by Mr. Burton, seconded by Mr. Rieley, that Sussex County Council hereby approves the Agreement with Nuvisions for the monitoring and support of what is known as the Georgetown Fiber Ring and executes said Agreement with Nuvisions as a step to providing seamless secure broadband services within Sussex County.**

**Motion Adopted:      5 Yeas.**

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

**Delaware Coastal Business Park Lease/Eastern Shore Natural Gas**      **Bill Pfaff, Economic Development Director, presented a proposed Lease Agreement with Eastern Shore Natural Gas Company for 1.15 acres on Nanticoke Avenue in the Delaware Coastal Business Park. The leased premises also includes the area currently identified as an unused portion of Sussex Avenue, from the east of the intersection of Sussex Avenue and Broad Creek Avenue to the fence located west of the intersection of Sussex Avenue and Park Avenue. The lease is for a term of eight months commencing on July 16, 2020 and ending on March 15, 2021 at a rate of \$1.00 for the length of the lease term. Mr. Pfaff noted that Eastern Shore Natural Gas Company is completing some of the infrastructure in the Delaware Coastal Business Park bringing natural gas to that area and the surrounding area.**

**M 294 20 Approve Lease Agreement/Eastern Shore Natural Gas**      **A Motion was made by Mr. Hudson, seconded by Mr. Burton, that the Sussex County Council approves the Lease Agreement with Eastern Shore Natural Gas Company, Inc., in the Delaware Coastal Business Park, located at 21706 Nanticoke Avenue, Georgetown, DE and to also include the area currently identified as an unused portion of Sussex Avenue, from the east of the intersection of Sussex Avenue and Broad Creek Avenue to the fence located west of the intersection of Sussex Avenue and Park Avenue, as presented.**

**M 294 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**

**Mobile  
Integrated  
Healthcare  
Pilot  
Program  
Extension**

**Robbie Murray, EMS Deputy Director of Administration, requested Council's approval to extend the Mobile Integrated Healthcare Pilot Program which was initially approved in August 2019. This program allowed trained Sussex County paramedics the opportunity to pilot a program to function as a transitional care provider team serving a targeted chronic obstructive pulmonary disease (COPD) population with a common history of frequent Emergency Department (ED) admissions. Beebe Healthcare provides medical oversight of the program. Mr. Murray stated that funding is in place and that all three parties involved in the pilot program (State of Delaware, Beebe Healthcare and Sussex County EMS) would like to see this program extended.**

**M 295 20  
Approve  
Extension/  
Mobile  
Integrated  
Healthcare  
Pilot  
Program**

**A Motion was made Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Council, through the EMS Department, extends the Mobile Integrated Healthcare Pilot Program in collaboration with Beebe Healthcare and the State of Delaware for a period of up to one year.**

**Motion Adopted: 5 Yeas.**

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

**Request  
for Re-  
Hearing/  
CU 2223**

**Jamie Whitehouse, Planning and Zoning Director, referenced the zoning application, Conditional Use No. 2223 filed on behalf of A&W Burbage, LLC, that was denied at the July 14th Council meeting due to the lack of representation and the lack of a record. It was noted that there was some confusion and the Applicant attended the morning session of the Council meeting instead of the afternoon session.**

**M 296 20  
Accept  
Request  
for Re-  
Hearing/  
CU 2223**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that the Sussex County Council accepts the request to schedule a re-hearing for Condition Use No. 2223 filed on behalf of A&W Burbage, LLC; the request meets the County's statutory requirements for a re-hearing.**

**Motion Adopted: 5 Yeas.**

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



**SCRWF  
and  
RBWTP  
Project**

**Hans Medlarz, County Engineer, presented a request to approve a 2nd Supplemental Alternative Financing Agreement with the City of Rehoboth Beach for the implementation and contract administration of an expanded Phase 2 of the Wastewater Treatment Plant Capital Improvement Plan.**

**M 297 20  
Approve  
2nd Sup-  
plemental  
Alternative  
Agreement/  
City of  
Rehoboth  
Beach**

**A Motion was made by Mr. Wilson, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department and Finance Department, that the Sussex County Council approves the 2nd Supplemental Alternative Financing Agreement with the City of Rehoboth Beach, as presented.**

**Motion Adopted: 5 Yeas.**

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

**SCRWF  
and  
RBWTP  
Project**

**Mr. Medlarz presented Change Orders for the South Coastal Regional Wastewater Facility Treatment Process Upgrade No. 3 and Rehoboth Beach Wastewater Treatment Plant Capital Improvement Program, Phase 2 – General Construction.**

**M 298 20  
Approve  
Change  
Order/  
SCRWF  
and  
RBWTP  
Project/  
General  
Con-  
struction**

**A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 3 for Contract C19-11, South Coastal RWF Treatment Process Upgrade No. 3 and Rehoboth Beach WTP Capital Improvement Program, Phase 2 – General Construction, be approved, decreasing the contract amount by \$9,764.30 for a new contract total of \$39,700,567.97.**

**Motion Adopted: 5 Yeas.**

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

**M 299 20  
Approve  
Change  
Order/  
SCRWF  
and  
RBWTP  
Project/  
General  
Con-  
struction**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 4 for Contract C19-11, South Coastal RWF Treatment Process Upgrade No. 3 and Rehoboth Beach WTP Capital Improvement Program, Phase 2 – General Construction, be approved increasing the contract by \$871,000.00 for a new contract total of \$40,571,567.97.**

**Motion Adopted: 5 Yeas.**

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

**M 300 20**  
**Approve**  
**Change**  
**Order/**  
**SCRWF**  
**and**  
**RBWTP**  
**Project/**  
**Electrical**  
**Con-**  
**struction**

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 5, Contract C19-17, South Coastal RWF Treatment Process Upgrade No. 3 and Rehoboth Beach WTP Capital Improvement Program, Phase 2 – Electrical Construction, be approved, increasing the contract by \$37,830.00 for a new contract total of \$21,461,679.20.

**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**  
**Project**

Hans Medlarz, County Engineer, presented a Change Order to the Western Sussex Transmission Facilities Contract, Contract 4, Pump Stations, Project S19-28.

**M 301 20**  
**Approve**  
**Change**  
**Order/**  
**Western**  
**Sussex**  
**Trans-**  
**mission**  
**Facilities**  
**Project**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2 for Contract S19-28, Western Sussex Transmission Facilities, Contract 4, Pump Stations, be approved, increasing the contract by \$22,642.78 for a new contract total of \$3,299,626.78.

**Motion Adopted: 5 Yeas.**

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

**Inland Bays**  
**RWF**  
**Project**

Hans Medlarz, County Engineer, presented a Change Order to the Inland Bays Regional Wastewater Facilities – Biosolids & Septage Facilities, Project 18-19. Mr. Medlarz noted that four (4) change orders have been lumped together into one (1) change order.

**M 302 20**  
**Approve**  
**Change**  
**Order/**  
**Inland Bays**  
**RWF**  
**Project**

A Motion was made by Mr. Rieley, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 6 for Contract 18-19, Inland Bays Regional Wastewater Facilities – Biosolids & Septage Facilities, be approved, increasing the contract amount by \$72,598.50, for a new contract total of \$13,908,649.59.

**Motion Adopted: 5 Yeas.**

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

**Grant**  
**Request**

Mrs. Jennings presented a grant request for the Council's consideration.

**M 303 20  
Council-  
manic  
Grant**

A Motion was made by Mr. Hudson, seconded by Mr. Burton, to give \$1,000.00 (\$500.00 each from Mr. Burton's and Mr. Hudson's Councilmanic Grant Accounts) to AIDS Delaware, Inc. and the Delaware HIV Consortium for the AIDS Walk Delaware fundraiser and awareness event.

**Motion Adopted: 5 Yeas.**

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

**Introduction  
of Proposed  
Zoning  
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 TO A B-2 BUSINESS COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 11.57 ACRES, MORE OR LESS" (Change of Zone No. 1920) filed on behalf of Plantation Partners, LLC (Tax I.D. No. 334-12.00-52.00 (part of) (911 Address: None Available).

Mr. Wilson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 19.342 ACRE BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 150 ACRES, MORE OR LESS" (Conditional Use No. 2227) filed on behalf of Mark J. Davis and Leona E. Davis (Tax I.D. No. 231-15.00-8.00) (911 Address 24294 Asbury Road, Georgetown).

Mr. Wilson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONCRETE CONTRACTOR OFFICE, STORAGE AND MAINTENANCE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.51 ACRES, MORE OR LESS" (Conditional Use No. 2231) filed on behalf of Solid Walls, LLC (Tax I.D. No. 230-31.00-24.00) (911 Address: 14411 VFW Road, Ellendale).

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

**Council  
Members'  
Comments**

**Council Members' Comments**

**Mr. Rieley commented on private property rights.**

**M 304 20**            **At 12:33 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, Go Into**  
**Executive**            **to recess the Regular Session and go into Executive Session for the purpose**  
**Session**            **of discussing a matter relating to 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**            **At 12:35 p.m., an Executive Session of the Sussex County Council was held**  
**Session**            **in the Council Chambers for the purpose of discussing matters relating to**  
**pending litigation. The Executive Session concluded at 12:54 p.m.**

**M 305 20**            **At 12:55 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Reconvene**  
**Regular**            **Burton, to come out of Executive Session and to reconvene the Regular**  
**Session**            **Session.**

**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**

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

**M 306 20**            **At 12:56 p.m., a Motion was made by Mr. Burton, seconded by Mr. Rieley, Recess**  
**to recess until 1:30 p.m.**

**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**

**M 307 20**            **At 1:34 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, Reconvene**  
**to reconvene.**

**Motion Adopted:        5 Yeas.**

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

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

**Public**                **A Public Hearing was held on the Proposed Ordinance entitled “AN**  
**Hearing/**            **ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF**  
**SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL**

**Public  
Hearing/  
CZ 1916  
(continued)**

**DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.03 ACRES, MORE OR LESS” (Change of Zone No. 1916) filed on behalf of Alice P. Robinson, Trustee (Tax I.D. No. 235-23.00-54.01, 54.02, and 54.05) (911 Address: Not Available).**

**The Planning and Zoning Commission held a Public Hearing on this application on June 25, 2020 at which time action was deferred. On July 9, 2020, the Commission recommended approval.**

**(See the minutes of the Planning and Zoning Commission dated June 25 and July 9, 2020.)**

**Jamie Whitehouse, Planning and Zoning Director, presented the application.**

**The Council found that Mark Davidson of Pennoni Associates was present with Alice Robinson and several family members. Mr. Davidson stated that the properties have been in the family for over 100 years; that the lands make up three (3) one-acre parcels; that the purpose of applying for C-2 zoning is to allow the family to construct a medium commercial complex to include small warehouses, storage facilities and offices; that the site is identified as being located in the Coastal Area, which is a growth area; that water and sewer service are available; that this rezoning is an infill in a commercial area that already exists; that the C-2 Medium Commercial zoning will minimize high traffic volume; and that the Change of Zone meets the general purpose of the Zoning Ordinance and is in compliance with the Comprehensive Plan. Mr. Davidson reviewed the Concept Plan, other commercial zonings and activities in the area, and DelDOT’s construction of the SR-1 and Cave Neck Road intersection and the Applicant’s coordination with DelDOT on road improvements. Mr. Davidson stated that this application would not have a negative impact on the area.**

**Mr. Burton commented on DelDOT’s plan for this area and interconnectivity with other commercial properties in the area in the future. Mr. Burton questioned if there is any way to make future interconnectivity and a tie-in mandatory. It was noted that since this is a Change of Zone application, there would be no stipulations of approval. Mr. Whitehouse noted that the Concept Plan submitted is conceptual and further discussion is needed on the Combined Highway Corridor Overlay Zone and whether that requires landscaping in the front; and that the site plan has to go through the Planning and Zoning Commission at which time the Commission expects interconnectivity unless there is a reason it cannot be provided. Mr. Whitehouse responded to Mr. Burton’s question about a stipulation stating that County Council can make it known that it is expected that interconnectivity and a tie-in is to be explored at the Site Plan process. It was noted by Mr. Whitehouse that it is possible for this parcel to**

**Public  
Hearing  
(continued)**

**be interconnected in the future to other adjoining parcels with commercial uses.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 308 20  
Adopt  
Ordinance  
No. 2727/  
CZ 1916**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2727 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.03 ACRES, MORE OR LESS” (Change of Zone No. 1916) filed on behalf of Alice P. Robinson, Trustee.**

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing/  
CZ 1907  
CU 2209**

**A combined Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.25 ACRES, MORE OR LESS” (Change of Zone No. 1907) and the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (14 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.25 ACRES, MORE OR LESS” (Conditional Use No. 2209) filed on behalf of Matthew Hete (Tax I.D. No. 334-6.00-686.00) (911 Address: 34360 Postal Lane, Lewes).**

**The Planning and Zoning Commission held a Public Hearing on these applications on June 25, 2020 at which time action was deferred. On July 9, 2020, the Commission recommended denial of both applications.**

**(See the minutes of the Planning and Zoning Commission dated June 25 and July 9, 2020.)**

**Jamie Whitehouse, Planning and Zoning Director, presented the applications.**

**Public  
Hearing/  
CZ 1907  
CU 2209  
(continued)**

**Mr. Whitehouse reported that 9 letters have been received in support of the applications and that 52 letters have been received in opposition to the applications.**

**Mr. Whitehouse reported that a revised site plan was received prior to the Public Hearing on this date.**

**The Council found that Kevin Smith of the Kercher Group was present with the Applicant, Matthew Hete. Mr. Smith stated that they took the Planning and Zoning Commission's recommendation to deny and considered the letters of opposition, and revised the site plan; that they are proposing four (4) single family style dwelling units instead of the original proposed fourteen (14) townhomes; that there would be four (4) detached dwellings on the one parcel; that the site is approximately 54,000 square feet and each unit would be designated approximately more than 10,000 square feet (the minimum lot size for MR zoned property); that a condo style ownership is proposed; that there may be some shared use lines; that the style of the homes would be compatible with the character of the neighborhood; that they are still requesting a change of zone to MR since the AR District would not permit this style of project; that the new proposal is a reduction in density from 14 units per acre to 3.2 units per acre; and that the new proposal would generate less traffic.**

**Council members discussed the proposed change to the applications (14 townhomes to 4 single family dwellings) and noted that it is a significant change when compared to the applications heard by the Planning and Zoning Commission.**

**Public comments were heard.**

**Catherine Davidson spoke on behalf of the Sandy Brae Homeowners Association stating that the project still does not address the safety issue, i.e. entrance and exit to the project, school bus stop and traffic through Sandy Brae. Ms. Davidson referenced correspondence sent to Council members from the Sandy Brae HOA.**

**There were no additional public comments.**

**The Public Hearing and public record were closed.**

**M 309 20  
Adopt  
Proposed  
Ordinance/  
CZ 1907  
  
Denied**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.25 ACRES, MORE OR LESS" (Change of Zone No. 1907) filed on behalf of Matthew Hete.**

**M 309 20  
(continued)**

**Motion Denied: 5 Nays.**

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

**M 310 20  
Adopt  
Proposed  
Ordinance/  
CU 2209**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (14 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.25 ACRES, MORE OR LESS” (Conditional Use No. 2209) filed on behalf of Matthew Hete.**

**Denied**

**Motion Denied: 5 Nays.**

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

**M 311 20  
Adjourn**

**A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to adjourn at 2:40 p.m.**

**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.}*