

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 9, 2022**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 9, 2022, at 10:00 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>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 10:42 a.m.**

**M 361 22  
Approve  
Agenda**

**A Motion was made by Mr. Hudson seconded by Mr. Schaeffer, 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**

**Public  
Hearing/  
The Lands  
of Hete4,  
LLC/  
Expansion  
into  
SCUSSD**

**A Public Hearing was held for The Lands of Hete4, LLC Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area).**

**John Ashman, Director of Utility Planning & Design Review explained that the Engineering Department received a request from Matthew Hete/Lands of Hete4, LLC, owner, and developer of the property. The request includes parcel 334-6.00-686.00 located on Postal Lane. The project consists of (4) Single Family homes on a single parcel. The project will be responsible for System Connection Charges of \$6,600 per EDU based on current rates. The area was posted on July 12<sup>th</sup>, advertised on the county website, and advertised the weeks of July 20 & July 27. There has been no contact in support or opposition received for this project at this time.**

**There were no public comments.**

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

**M 362 22  
Adopt**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to Adopt Resolution No. R 009 22 entitled "A RESOLUTION TO EXTEND THE**

**Resolution No. R 009 22**      **BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) WEST REHOBOTH AREA, TO INCLUDE LANDS OF HETE4, LLC ALONG THE SOUTH SIDE OF POSTAL LANE LOCATED IN THE LEWES AND REHOBOTH 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/ Mayapple Farm/ Expansion in SCUSSD**      **A Public Hearing was held on Mayapple Farm Expansion of the Sussex County Unified Sanitary Sewer District (Bay View Estates Area).**

**John Ashman, Director of Utility Planning & Design Review explained that the Engineering Department received a request from GMB, LLC on behalf of their client Mayapple Farm, LLC, the owners, and 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 area was posted on July 12<sup>th</sup> and advertised on the County website. A request has been received from the adjacent property owner to include two of their parcels into the sewer district as well. This would add parcels 289.02 & 289.03 in the sewer district; the engineering department would support their request. In addition, a letter was received from Carol Camelio, expressing a concern that this would impact her onsite septic and her structure consisting of a one-hundred-year-old farmhouse. A call was also received questioning the capacity for the Maryland side of Bayview Estates.**

**Public comments were heard.**

**Wendy Megee came forward to speak in reference to the sewer expansion. Ms. Magee questioned if she would have an opportunity to tap into the public sewer if she chooses to at a later date. She added that a septic system was just installed at her residence about 18 months ago.**

**Mr. Ashman responded that she could annex at any time when her system is having issues. She would need to extend from her house and would have the opportunity to extend whenever she desires. Mr. Ashman pointed out that the County is not paying for the infrastructure, therefore, there is no requirement to make them connect at this time. In addition, there is no fee until they decide to connect. Mrs. Megee requested that her property (35700 Williamsville Road, Tax Parcel #533-19.00-290.00) be included in the annexation and it be extended far enough so that at some point her property could tap in if desired.**

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

**M 363 22**      **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to Adopt**  
**Adopt**      **Resolution No. R 010 22 entitled “A RESOLUTION TO EXTEND THE**  
**Resolution**      **BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER**  
**No. R 010 22**      **DISTRICT (SCUSSD) BAY VIEW ESTATES AREA, TO INCLUDE THE**  
                         **MAYAPPLE SUBDIVISION AND 7 PARCELS LOCATED IN THE**  
                         **BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE AND**  
                         **RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN**  
                         **AND FOR SUSSEX COUNTY, DELAWARE” to include parcel 533-19.00-**  
                         **290.00 requested today.**

**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 July 26, 2022 meeting were approved by consensus.**

**Corres-**      **Mr. Robertson read correspondence received from The Harry K**  
**pondence**      **Foundation and The Nanticoke Indian Association, Inc. in appreciation of**  
                         **grants received.**

**Public**  
**Comment**      **There were no public comments.**

**Georgetown**      **Mr. Schaeffer stated that he asked for this item to be placed on the agenda.**  
**Historical**      **As he stated during the last meeting, he believes that it is inappropriate to**  
**Society**      **use taxpayers money for the Georgetown Historical Society.**  
**Grant**

**A Motion was made by Mr. Schaeffer, seconded by Mrs. Green to ask the**  
**Georgetown Historical Society to return the taxpayers money to the**  
**County.**

**Mr. Vincent commented that it is believed that the piece of property where**  
**this monument and flag is located is leased to a group of people. So, if the**  
**property is leased, he is unsure if legally they have the ability to do**  
**anything. In addition, in the last 15 years, the County Council has given 15**  
**grants to this same organization for various items.**

**Mr. Vincent added that the grant request was for an air conditioning unit**  
**that he understands has been purchased, replaced, and is working. He**  
**further explained that the requests are included in the packets each week**  
**and it is the responsibility of the Council person to read the packet and ask**  
**any question prior to the item being voted on and everything being**  
**completed.**

**Mr. Vincent suggested to find out for sure if there is a lease on the property**

that this flag and monument sits on. In addition, who has the lease and what is the legal ramifications trying to do something.

**M 364 22  
Georgetown  
Historical  
Society  
Grant**

A Motion was made by Mr. Vincent, seconded by Mr. Rieley to table this matter until it can be found out the information discussed.

**Motion Adopted: 5 Yeas.**

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

**Adminis-  
trator's  
Report**

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

**1. Certificate of Achievement for Excellence in Financial Reporting**

I am pleased to announce that the Government Finance Officers Association of the United States and Canada has awarded Sussex County its Certificate of Achievement for Excellence in Financial Reporting for the 2021 Comprehensive Annual Financial Report. This is the 20<sup>th</sup> consecutive year that the County has received this prestigious award acknowledging the financial report. The award is among the highest forms of recognition for governmental accounting and financial reporting.

Congratulations to Gina Jennings, Finance Director/Chief Operating Officer, Kathy Roth, Deputy Finance Director, and the accounting staff for their efforts in achieving this award.

**2. FY 2023 Human Service Grant Program**

Applications for the Fiscal Year 2023 Human Service Grant Program are now being accepted. The Human Service Grant Program provides grants to county-wide nonprofit agencies for the purpose of enhancing health and human services which contribute to a safe, healthy, and self-sufficient community. Funds provide grants that assist organizations with resources in support of programs or capital purchases.

To be eligible for a grant, organizations must fill out an application which is available on the County's website at [www.sussexcountype.gov](http://www.sussexcountype.gov).

The deadline for filing grant requests is Friday, September 30<sup>th</sup>.

**3. Projects Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheets, the

**Administrator's  
Report  
(continued)**

following projects have received Substantial Completion: Marsh Island – Phase 3B (Construction Record) effective July 22<sup>nd</sup>, Ocean View Beach Club North – Phase 4 (f/k/a Lighthipe) (Construction Record) effective July 22<sup>nd</sup>, Headwater Cover – Phase 1 (Construction Record) effective July 25<sup>th</sup>, and Seagrove (a/k/a Harlton) – Phase 6 effective August 1, 2022.

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

**Proposed  
Herring  
Creek  
Project  
Ordinance**

Hans Medlarz, County Engineer presented for consideration a Proposed Ordinance to authorize the issuance of up to \$1,900,000 for General Obligation Bonds of Sussex County in connection with the construction and equipping of an extension of sanitary sewer services to Herring Creek and authorizing all necessary actions in connection therewith.

**Introduction  
of Proposed  
Ordinance**

Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,900,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO HERRING CREEK AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH"

**Balancing  
CO No. 2/  
Substantial  
Completion/  
Project S20-  
14**

Hans Medlarz, County Engineer presented a balancing Change Order and substantial completion for Mulberry Knoll Force Main and Pump Station, Project S20-14 for Council's consideration. The recommendation is to decrease the contract value and grant Substantial Completion effective May 1, 2022.

**M 365 22  
Approve CO  
No. 2/  
Substantial  
Completion/  
Project S20-  
14**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley that be it moved based upon the recommendation of the Sussex County Engineering Department, that balancing Change Order No. 2 for contract S20-14, Mulberry Knoll pump station & force main, be approved, for a decrease of \$16,975.00 and that substantial completion be granted effective May 1, 2022, with any held retainage released in accordance with the contract documents.

**Motion Adopted:** 5 Yeas

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

**Agreement/  
Lewes**

Hans Medlarz, County Engineer presented Amendment No. 3 for the agreement for Wastewater Services – Lewes Board of Public Works for

**Board of Public Works**      **Council's consideration. Mr. Medlarz explained that a third amendment was requested to allow another of BPW's service area tie-in(s) to the County's system on Gills Neck Road.**

**M 366 22**      **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, be it**  
**Approve**      **moved based upon the recommendation of the Sussex County**  
**Agreement/**      **Engineering Department that Council approve the revised agreement for**  
**Lewes**      **Wastewater services with the Lewes Board of Public Works, as**  
**Board of**      **presented.**  
**Public**  
**Works**

**Motion Adopted:      5 Yeas**

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

**Old**      **Under Old Business, Mr. Whitehouse presented Conditional Use No. 2294**  
**Business/**      **filed on behalf of the Horsey Family, LLC entitled "AN ORDINANCE TO**  
**CU2294**      **GRANT A CONDITIONAL USE OF LAND IN AN AR-1**  
**AGRICULTURAL RESIDENTIAL DISTRICT FOR THE EXPANSION**  
**OF CU 1741 (ORDINANCE 2021) FOR THE EXPANSION OF A**  
**BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND**  
**LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY,**  
**CONTAINING 62.204 ACRES, MORE OR LESS". The County Council**  
**held a public hearing on this matter on June 14, 2022, at conclusion of the**  
**public hearing, action was deferred for further consideration.**

**The gavel was given to Mr. Hudson.**

**M 367 22**      **A Motion was made by Mr. Vincent, seconded by Mr. Rieley to amend**  
**Amend**      **Condition M by adding at the end of that condition, along Asbury Road, the**  
**Condition**      **buffer area shall also include a 10-foot-high berm next to the borrow**  
**M/CU2294**      **pit which berm may be removed at the discretion of the applicant as part of**  
**the reclamation plan when the dredging operations cease.**

**Motion Adopted:      5 Yeas**

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

**The gavel was given back to Mr. Vincent.**

**M 368 22**      **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to Adopt**  
**Adopt**      **Ordinance No. 2877 entitled "AN ORDINANCE TO GRANT A**  
**Ordinance**      **CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**  
**No. 2877/**      **RESIDENTIAL DISTRICT FOR THE EXPANSION OF CU 1741**

**CU2294**

**(ORDINANCE 2021) FOR THE EXPANSION OF A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 62.204 ACRES, MORE OR LESS” for the reasons given by Planning and Zoning Commission as follows as amended:**

- 1. The subject property is adjacent to an existing, operational borrow pit that was approved by Sussex County Council as Conditional Use #1741 by Ordinance #2021. This application is for a reasonable expansion of that existing borrow pit operation.**
- 2. The subject property is zoned AR-1, and the surrounding properties are primarily used for agricultural purposes. This expansion of the existing borrow pit will not adversely affect the surrounding properties and the uses that occur on them.**
- 3. The Sussex County Comprehensive Plan identifies this property as being in the “Rural Area”. Borrow pit operations are appropriate within this designated Area according to the Plan.**
- 4. The proposed expansion of the existing borrow pit will not increase the congestion on nearby roadways. This is confirmed by DelDOT, which has stated that the proposed Conditional Use will have a “diminutive” impact upon area roadways. In fact, there should be no significant increase in traffic beyond what is currently generated by the existing borrow pit operations.**
- 5. This expansion of the existing borrow pit is generally of a public or semi-public character and is essential and desirable for the general convenience and welfare of Sussex County residents, visitors, public works projects, and businesses. This application will provide additional borrow pit materials that will be used in the construction of public and private projects throughout Sussex County.**
- 6. The Applicant will be required to comply with the requirements of Section 115-172B of the Sussex County Zoning Code, which are specific to borrow pit operations.**
- 7. The Applicant has stated that upon completion of the borrow pit operations, the reclamation plan will enable the site to become a wildlife pond for fish and fowl.**
- 8. No parties appeared in opposition to this Application.**
- 9. This recommendation is subject to the following conditions:**
  - A. No materials shall be brought from off the site for processing, mixing, or similar purposes.**
  - B. Water or a water truck shall be available to control dust from road traffic when conditions require.**
  - C. The entrance to the expansion of the existing pit shall utilize the existing entrance on Hardscrabble Road. There shall be no entrance on S.C.R. 446 (Asbury Road). The entrance on Hardscrabble Road shall be fenced or gated to prevent access. All entrances shall be secured when the borrow pit is not in operation.**
  - D. Any additional roadway and entrance improvements required by DelDOT shall be completed by the Applicant as required and in**

**M 368 22  
Adopt  
Ordinance  
No. 2877/  
CU229  
(continued)**

- accordance with all DelDOT requirements.
- E.** The Applicant shall comply with all State and County erosion and sediment control regulations. The project will meet or exceed stormwater management system regulations set forth by the Sussex Conservation District and DNREC through a combination of Best Management Practices (BMP) and Best Available Technologies (BAT). The final site plan shall contain the approval of Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
- F.** The hours of trucking operations shall be between 6:00 a.m. and 6:00 p.m. Monday thru Friday and between 6:00 a.m. and 2:00 p.m. on Saturdays. Dredging operations may operate 24 hours per day, 6 days per week as permitted under Ordinances #2021. No Sunday hours shall be permitted.
- G.** No materials shall be stored on any access roads or within any buffers.
- H.** Any fuel stored on the site shall be subject to the jurisdiction of DNREC and the Sussex Soil Conservation District.
- I.** No stumps, branches, debris, or similar items shall be buried or placed in the borrow pit site.
- J.** The proposed pit will have a 4:1 side slope down to a 10-foot level bench that will be approximately near or 1 foot below the static water surface. Below the water level, the borrow pit shall have 3:1 slopes. The depth of the water in the proposed borrow pit will not exceed 100 feet.
- K.** A final site plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations. Reclamation plans shall indicate finished grading, seeding, and planting schedules designed to create a pleasing appearance and protect existing and future developments.
- L.** Permanent concrete markers and signs shall be placed at appropriate locations to designate the boundaries of the subject property and pit areas. The boundary markers shall be raised and marked so that they are clearly visible to anyone nearing the site.
- M.** The borrow pit shall be surrounded by a buffer strip a minimum distance of 100 feet from any street lines, 200 feet from any dwelling of other ownership, and 50 feet from all other property lines of other ownership. The buffer area shall be a vegetated buffer of existing vegetation or native species vegetation. Along Asbury Road, the buffer area shall also include a 10-foot-high berm next to the borrow pit which berm may be removed at the discretion of the applicant as part of the reclamation plan when the dredging operations cease.
- N.** No wetlands on the site shall be disturbed and the pit shall be located at least 100 feet from all delineated wetlands.
- O.** This approval shall terminate upon the expiration of fifty (50) years from the date of enactment.
- P.** Any safety lights shall be screened downward, so they do not shine on



**M 368 22**  
**Adopt**  
**Ordinance**  
**No. 2877/**  
**CU229**  
**(continued)**

**neighboring properties or roadways.**  
**Q. The final site plan shall be subject to the review and approval of the**  
**Sussex County Planning and Zoning Commission.**

**Motion Adopted: 5 Yeas**

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

**Old**  
**Business/**  
**Proposed**  
**Building**  
**Code**  
**Ordinance**

**Under Old Business, Andy Wright, Chief of Building Code presented an**  
**Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 52, § 52-**  
**1 OF THE CODE OF SUSSEX COUNTY TO ADOPT THE BUILDING**  
**CONSTRUCTION STANDARDS IN THE INTERNATIONAL**  
**BUILDING CODE 2021 EDITION AND THE INTERNATIONAL**  
**RESIDENTIAL CODE 2021 EDITION”.**

**Andy Wright, Chief of Building Code presented information showing**  
**towns that use the 2021 IRC Standards and towns that use the previous**  
**ordinance for the stair riser height measurements.**

**Mr. Hudson discussed the safety need that should be considered in this**  
**situation.**

**M 369 22**  
**Riser and**  
**Tread Depth**  
**Exemption**

**A Motion was made by Mrs. Green, seconded by Mr. Schaeffer that**  
**Section 52-1D (3) and (4) under IRC exemptions as shown on lines 87-94**  
**on pages 3 and 4 of the Proposed Ordinance be removed in their entirety**  
**such that the 2012 IRC Code Standards (the standard currently being**  
**followed by Sussex County will be followed as to the riser height and**  
**tread depth).**

**Motion Failed: 2 Yeas, 3 Nays**

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

**M 370 22**  
**Effective**  
**Date/**  
**Proposed**  
**Building**  
**Code**  
**Ordinance**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson to make the**  
**effective date for this Ordinance amendment be January 1, 2023.**

**Motion Adopted: 4 Yeas, 1 Nay**

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

**M 371 22  
Approve &  
Amend  
Ordinance  
No. 2851**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to approve Ordinance No. 2851 entitled “AN ORDINANCE TO AMEND CHAPTER 52, § 52-1 OF THE CODE OF SUSSEX COUNTY TO ADOPT THE BUILDING CONSTRUCTION STANDARDS IN THE INTERNATIONAL BUILDING CODE 2021 EDITION AND THE INTERNATIONAL RESIDENTIAL CODE 2021 EDITION” as amended.

**Motion Adopted: 4 Yeas, 1 Nay**

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

**Old  
Business/  
Proposed  
Affordable  
Housing  
Ordinance**

Under Old Business, Mr. Robertson presented 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 reminded Council that a public hearing was held on the Proposed Ordinance on June 28, 2022. At the conclusion of the public hearing, the public record was left open for a period of two weeks for the receipt of additional written comments only.

Mr. Robertson discussed the timeline and next steps for the Proposed Ordinance.

Mr. Robertson reported that concerns were raised related to the by-right nature of the Ordinance and no public hearings. He added that the site plan review without a public hearing currently exists in code. Mr. Robertson explained that the Ordinance creates strict framework for an approved development. Applications can only be built in specific growth areas including Town Center, Developing Area, Coastal Area, and Commercial (to be added). Additional requirements include: SCRPs set-asides, utilities, open space & buffers, building height and density limits, interconnectivity, sidewalks, and proximity to DART routes. The Ordinance provides predictability for the applicant and answers the need for workforce housing. Today, the County has only seen one SCRPs development built after more than a decade of the current program due to the significant “head winds” applicants face with these projects.

Mr. Robertson provided a summary of recent affordably priced housing applications, based upon P&Z Hearings. The projects included Diamond State Community Land Trust, Coastal Tide (formerly identified under the Applicant’s name as Rick Banning, then Cottages of Arbordale, now Coastal Tide, Nasssau DE Acquisition Co., LLC and Ashton Oaks). In

**Old  
Business/  
Proposed  
Affordable  
Housing  
Ordinance  
(continued)**

summary, all of these projects had substantial opposition; two of them resulted in lawsuits; a denial of one of them resulted in a HUD enforcement action against Sussex County; one of them was denied outright eliminating the potential SCRP units completely; and the other had its density reduced (with a corresponding loss of SCRP units). Mr. Robertson explained that with not holding public hearings, it provides predictability for the landowners wishing to sell to someone that desires to do a SCRP unit, developers knowing they will be able to do the project without a public hearing, Sussex County Community Development & Housing Department and people that need affordable housing.

Additional points raised include: if the number of SCRP set-asides at 30% should be kept or adjusted, the calculation of the SCRP rental rates, it was questioned if the proposal will allow these developments to be built anywhere in the County, the proximity in distance to the DART routes were questioned and the need for a look-back clause.

Mr. Schaeffer questioned how it will be enforced if a developer did not have the number of units at the rental rate designated. Mr. Robertson explained that an annual report is required to be provided each year that is certified by a CPA that is not affiliated with the developer. If they were not renting to a SCRP family, the rent would be forfeited, and it would go into a fund collected by Sussex County used for housing purposes and administered by the Sussex County Housing Development Office. In addition, the constable office could get involved to collect the funds in court.

The minimal lot size and setbacks for these projects were discussed.

Mr. Robertson then reviewed the topics that were previously discussed. The topics were as follows: amend the residency requirement while listing standards and preferences for those that live and work in Sussex, delete the primary view requirement, amend walking and biking trails requirement to permit flexibility in trail locations, amend sidewalk & interconnectivity requirement to permit flexibility and amend criminal and credit history standards.

**Grant  
Requests**

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

**M 372 22  
Milton  
Community  
Foundation,  
Inc.**

A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,500 (\$1,500 from Mrs. Green's Councilmanic Grant Account) to Milton Community Foundation, Inc. for a plastic water bottle refill unit.

**Motion Adopted: 5 Yeas**

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

**M 373 22**      **A Motion was made by Mr. Rieley, seconded by Mr. Hudson to give \$1,000**  
**CHEER Inc.**      **(\$1,000 from Mr. Rieley's Councilmanic Grant account) to CHEER Inc., for**  
                      **their 12<sup>th</sup> Annual Car, Truck & Bike Show.**

**Motion Adopted:      5 Yeas**

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

**M 374 22**      **A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$1,500**  
**Bridgeville**      **(\$1,500 from Mrs. Green's Councilmanic Grant account) to Bridgeville**  
**Apple**            **Apple Scrapple, Inc. for their 30<sup>th</sup> Annual Apple Scrapple Festival.**  
**Scrapple,**  
**Inc.**

**Motion Adopted:      5 Yeas**

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

**M 375 22**      **A Motion was made by Mrs. Green, seconded by Mr. Hudson to give \$2,000**  
**Cornerstone**      **(\$1,000 from Mrs. Green Councilmanic Grant account and \$1,000 from Mr.**  
**Community**      **Vincent's Councilmanic Grant account) to Cornerstone Community Center**  
**Center**            **for their Holiday Extravaganza.**

**Motion Adopted:      5 Yeas**

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

**M 376 22**      **A Motion was made by Mr. Hudson, seconded by Mr. Rieley to give \$1,000**  
**Operation**      **(\$1,000 from Mr. Hudson's Councilmanic Grant Account) to Operation**  
**Seas The**        **Seas The Day for operating expenses.**  
**Day**

**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. Schaeffer reintroduced a Proposed Ordinance entitled "AN**  
**of Proposed**      **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-**  
**Ordinances**      **1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MEDICAL**  
                          **OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF**  
                          **LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED,**  
                          **SUSSEX COUNTY, CONTAINING 2.29 ACRES, MORE OR LESS"**

**Introduction of Proposed Ordinances (continued)**      **Mr. Schaeffer reintroduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION NO. 9 IN ORDINANCE NO. 2378 (CONDITIONAL USE NO. 1963) TO AMEND THE REQUIREMENT THAT NO CAMPERS OR RVS SHALL BE STORED ON THE CAMPGROUND DURING THE PERIOD THAT THE CAMPGROUND IS CLOSED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 54.33 ACRES, MORE OR LESS”**

**Mrs. Green introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.327 ACRES, MORE OR LESS”**

**Mr. Vincent introduced a Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 39.45 ACRES, MORE OR LESS”**

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

**Council Member Comments**

**There were no Council member comments.**

**M 377 22 Go Into Executive Session**

**At 12:06 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley to recess the Regular Session, and go into Executive Session for the purpose of discussing matters relating to land acquisition and pending/potential litigation.**

**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 12:10 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to land acquisition, pending/potential litigation, and personnel. The Executive Session concluded at 12:34 p.m.**

**M 378 22 Reconvene**

**At 12:37 p.m., a Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to come out of Executive Session and back into Regular Session.**

**Motion Adopted: 3 Yeas, 2 Absent**

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

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

**M 379 22 A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson to recess  
Recess until 1:30 public hearings.**

**Motion Adopted: 3 Yeas, 2 Absent**

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

**M 380 22 At 1:32 p.m., a Motion was made by Mrs. Green, seconded by Mr. Schaeffer  
Reconvene 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**

**Mr. Robertson read the procedure for public hearings on zoning matters.**

**Public Hearing/  
CZ1961 A Public Hearing was held on a Proposed Ordinance 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  
PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN  
GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 7.75  
ACRES, MORE OR LESS” (property lying on the north side of Lewes-  
Georgetown Highway [Route 9], approximately 0.89 mile east of Steiner  
Road) (911 Address: 24347 Lewes-Georgetown Highway [Route 9]) (Tax  
Parcel: p/o 135-11.00-32.00)**

**The Planning and Zoning Commission held a Public Hearing on the  
application on July 14, 2022, and on July 28, 2022, the Commission  
recommended approval of the application for the nine reasons stated.**

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

**The Council found that Mr. Mark Davidson, Principal Land Planner with  
Pennoni Associates, spoke on behalf of the Application; that also present were**

**Public  
Hearing/  
CZ1961  
(continued)**

**Mr. Gerald Dougherty and Mrs. Stephanie Dougherty, who are the owners of Country Lawn Care & Maintenance, LLC; that also present was Mr. Allen Decker, Professional Engineer from Pennoni and Mr. Eric Wall, registered landscape architect; that the application is to request a Change of Zone of 7.75-acres, located on the northside of Lewes Georgetown Hwy., within the AR-1 (Agricultural Residential) to C-2 (Medium Commercial) Zoning District; that the remainder of the property is 3.85 acres, which is currently zoned C-1 (General Commercial); that the property is bordered on the east by Weston Willows Apartments, being commercially zoned; that Country Lawn Care & Maintenance, LLC recently received the contract to maintain the lawncare for Weston Willows Apartments; that should the Application receive approval, the business will be located adjacent to the property they will be providing services for; that to the north of the property is a major subdivision, Azalea Woods; that to the west of the property, there are multiple split zoned properties, being zoned for commercial and agricultural use; that the purpose of the C-2 (Medium Commercial) District is to support uses which include retail sales and performance of consumer services, permitting a variety of retail, professional and business services, being located near arterial and collector streets; that the Applicant proposes to utilize the site as the headquarters for their landscaping business named Country Lawn Care; that the business currently employs 22 employees; that currently the business is located west of the property; that the Applicant was leasing their current property; that the leased property has now been sold, requiring the Applicant to vacate the property; that there are multiple other businesses in the surrounding area; that these businesses include Sequoia Landscaping, M&V Tire, Rt. 9 Industrial Center, VS Service & Cycle Center and the DelDOT Maintenance Yard; that the rezoning request is consistent with the Comprehensive Plan; that Rt. 9 is considered a business corridor, with a mixture of business and residential uses; that according to the Sussex County Future Land Use Map, the property is located within a commercial land use area; that the properties are located in both an Investment Level 3 and Investment Level 4 area; that Artesian offers water and sewer services to the area; that the Applicant will work with DelDOT on road improvements, transportation projects and dedication of additional right-of-way along Rt. 9; that this is considered a negligible amount of traffic; that since Rt. 9 is a principal arterial road, setback requirements are increased to allow for future right-of-way dedication, permanent easements and additional stormwater management setbacks; that Table 4.5-2 references the applicable zoning designations which match the Future Land Use Map; that within Table 4.5-2 the C-2 Zoning District is considered applicable; that along the easternly property line there is a tax ditch; that there is a 80-foot setback; that documents have been submitted to DNREC, requesting a reduction in the setback from 80-ft. to 25-ft.; that the DNREC request is currently under review; that there are isolated wetlands located on the property; that the report was included within the Exhibit Booklet; that no disturbance of the wetland area will occur during the development of the site; that the property is located within Flood Zone X; that the site is not located within a Groundwater Protection Zone; that they feel the proposed zoning request meets the general purpose of the Zoning Ordinance, being the property is**

**Public  
Hearing/  
CZ1961  
(continued)**

located in an appropriate location, meeting the strategies and objectives of the Comprehensive Plan, promoting the growth and development in an area located along a principal arterial roadway; that a sufficient dedication for expansion of the highway will be provided, where a general mixture of commercial and services activities exist; that the rezoning is essential and desirable to the general convenience, orderly growth, prosperity and the welfare of the County.

There were no public comments.

The Public Hearing and public record were closed.

**M 381 22  
Adopt  
Ordinance  
No. 2878/  
CZ1961**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer to Adopt Ordinance No. 2878 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 PORTION OF A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 7.75 ACRES, MORE OR LESS" for the reasons given by Planning and Zoning as follows:

1. C-2 Medium Commercial Zoning is designed to support retail sales and the performance of consumer services. It is intended to be located near arterial and collector roads.
2. The Applicant's property is located along Route 9 which is classified as a "Principal Arterial" roadway. The front 3.85 acres of the property is currently zoned C-1. The Applicant seeks to rezone the back 7.75 acres of the property to the C-2 Medium Commercial District so that the entire property is commercially zoned. This is an appropriate location for C-2 zoning.
3. The property is bordered on the east side by a commercially zoned property that has developed as an apartment complex. It is bordered on the north by a property approved for a major subdivision and on the west by another split-zoned property with commercial zoning. This is an appropriate location for C-2 zoning.
4. C-2 Zoning at this location along Route 9 will benefit nearby residents of Sussex County by providing a commercial location for the Applicant's business.
5. There is no evidence that this rezoning will have an adverse impact on neighboring properties and area roadways.
6. The site is in the "Commercial Area" according to the Sussex County Land Use Plan and Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.
7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order prosperity, and welfare of the County.
8. No parties appeared in opposition to the rezoning application.
9. Any future use of the property will be subject to Site Plan review by the Sussex County Planning & Zoning Commission.



**M 381 22  
Adopt  
Ordinance  
No. 2878/  
CZ1961  
(continued)**

**Motion Adopted: 5 Yeas**

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

**A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley to adjourn at  
1:47 p.m.**

**M 382 22  
Adjourn**

**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.}*



