

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 20, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 20, 2019, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Irwin G. Burton III	Vice President
Douglas B. Hudson	Councilman
John L. Rieley	Councilman
Samuel R. Wilson Jr.	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 419 19
Amend
and
Approve
Agenda**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to amend the Agenda by deleting "Introduction of Proposed Zoning Ordinances" and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of August 13, 2019 were approved by consent.

**Public
Comments**

A public comment period was held and the following spoke: Adele Jones (Optimist Club of Sussex County), Joe Ashton, Paul Reiger, and Dan Kramer.

**Public
Hearing/
Proposed
Ordinance
Relating to
Chapter 110
Service
Charges**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 110, ARTICLE XIII, SECTION 110-88, SUBSECTIONS D AND H THEREOF, RELATING TO THE ESTABLISHMENT OF ANNUAL SERVICE CHARGES; DETERMINATION OF AMOUNT OF CHARGE".

Hans Medlarz, County Engineer, presented the Proposed Ordinance. He reported that Section 110-88D of the County Code attributes Equivalent Dwelling Units (EDUs) to certain types of establishments. Mr. Medlarz stated that the Code does not identify certain medical and healthcare

**Public Hearing/
Proposed Ordinance
Relating to Chapter 110
Service Charges
(continued)**

establishments and should be amended to include certain types of uses that previously were not specifically identified, i.e. emergency centers and special treatment centers, hospitals, nursing homes, assisted living, rehabilitation and detox facilities and halfway houses, and service stations with bays and car dealerships with or without service bays and funeral homes.

There were no public comments.

The public record and Public Hearing were closed.

**M 420 19
Adopt Ordinance
No. 2677**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, to Adopt Ordinance No. 2677 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 110, ARTICLE XIII, SECTION 110-88, SUBSECTIONS D AND H THEREOF, RELATING TO THE ESTABLISHMENT OF ANNUAL SERVICE CHARGES; DETERMINATION OF AMOUNT OF CHARGE”.

Motion Adopted: 5 Yeas.

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

**Recognition
of Loran
George**

The Council recognized Loran George, Facility District Manager – Environmental Services, for 30 years of service to Sussex County.

**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 2018 Comprehensive Annual Financial Report (CAFR). This is the 17th 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. Council Meeting and Holiday Schedule

Council will not meet on August 27th or September 3rd. The next regularly scheduled Council meeting will be held on Tuesday, September 10th. In addition, County offices will be closed Monday,

(continued) **September 2nd, for the Labor Day holiday.**

**EMS
Medic
Station 111
Lease/
Cheer, Inc.** **Robert Schoonover, EMS Manager of Logistics, presented a proposed Lease Agreement between Cheer, Inc. and Sussex County for an EMS Station at the Milton Cheer Center (Medic 111). The lease is for a one-year period with two one-year renewals. The monthly lease fee is \$100.00 which includes all utilities and internet access.**

**M 421 19
Approve
Lease
Agreement
for EMS
Medic
Station 111
with
Cheer, Inc.** **A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves a new Lease Agreement for Milton, Delaware, EMS Medic Station 111, between Sussex County and Cheer, Inc. for a period of one year, from October 1, 2019 to September 30, 2020 with two, one-year renewal periods, as per the terms and conditions of the lease.**

Motion Adopted: 5 Yeas.

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

**Proposed
Ordinance
Relating to
Adminis-
trative
Approval
Processes
for
Garage/
Studio
Apartments
and Manu-
factured
Home-Type
Structures
in an
Emergency
or Hardship
Situation** **Janelle Cornwell, Planning and Zoning Director, presented a Proposed Ordinance for discussion and possible introduction entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VI, VII, VIII, IX, X, XA, XB, XI, XIA, XIB, XIC, XID, XIE, XIF, XII, XIII, XIV, XV AND XXVII BY AMENDING SECTIONS 115-20, 115-23, 115-29, 115-32, 115-40 115-48, 115-53, 115-56, 115-64, 115-69, 115-72, 115-75.2, 115-75.4, 115-75.9, 115-75.11, 115-80, 115-83.6, 115-83.11, 115-83.13, 115-83.18, 115-83.20, 115-83.26, 115-83.28, 115-83.33, 115-83.35, 115-83.40, 115-83.42, 115-88, 115-94, 115-97, 115-105, 115-114, 115-210 AND TABLE IV TO ESTABLISH ADMINISTRATIVE APPROVAL PROCESSES FOR THE USE OF A MANUFACTURED HOME-TYPE STRUCTURE FOR A BUSINESS, COMMERCIAL OR INDUSTRIAL USE, FOR GARAGE/STUDIO APARTMENTS AND MANUFACTURED HOME-TYPE STRUCTURES IN AN EMERGENCY OR HARDSHIP SITUATION”. Ms. Cornwell stated that the Proposed Ordinance will allow for certain items to go through an administrative process that currently require a Special Use Exception from the Board of Adjustment: garage/studio apartments, manufactured home-type structures for an emergency/medical hardship and manufactured home-type structures used as an office.**

**Introduction
of Proposed
Ordinance** **Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VI, VII, VIII, IX, X, XA, XB, XI, XIA, XIB, XIC, XID, XIE, XIF, XII, XIII, XIV, XV AND XXVII BY AMENDING SECTIONS 115-20, 115-23, 115-29, 115-32, 115-40 115-48, 115-53, 115-56, 115-64, 115-69, 115-72, 115-75.2, 115-75.4, 115-75.9, 115-75.11, 115-80, 115-83.6, 115-83.11, 115-83.13, 115-83.18, 115-83.20, 115-83.26, 115-83.28, 115-83.33, 115-83.35, 115-83.40, 115-83.42, 115-88, 115-94,**

Introduction of Proposed Ordinance (continued)

115-97, 115-105, 115-114, 115-210 AND TABLE IV TO ESTABLISH ADMINISTRATIVE APPROVAL PROCESSES FOR THE USE OF A MANUFACTURED HOME-TYPE STRUCTURE FOR A BUSINESS, COMMERCIAL OR INDUSTRIAL USE, FOR GARAGE/STUDIO APARTMENTS AND MANUFACTURED HOME-TYPE STRUCTURES IN AN EMERGENCY OR HARDSHIP SITUATION”.

The Proposed Ordinance will be advertised for Public Hearing.

FY 2019 General Labor and Equipment Contract C/O

Hans Medlarz, County Engineer, presented a Balancing Change Order for the FY 2019 General Labor and Equipment Contract, Project No. 19-01. Balancing Change Order No. 3, in the amount of \$164,588.09, will finalize all balances for FY 19 projects and adjustments for the SR 1-A project.

M 422 19 Approve C/O No. 3/ FY 2019/ General Labor and Equipment Contract

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Balancing Change Order No. 3 to the FY 19 portion of Contract 19-01, General Labor and Equipment, in the amount of \$164,588.09, be approved for the final close-out of FY 19 project balances.

Motion Adopted: 5 Yeas.

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

Project Update/ EMS 200/ Medic 110 Station/ Project C19-08

Hans Medlarz, County Engineer, reported on the EMS 200/Medic 110 Station Project (Project C19-08). Mr. Medlarz reported that the development of the new station required professional services and, after a publicly advertised Request For Proposals process, Council awarded on July 17, 2018, the EMS Department’s Architectural Consulting Services base contract to George, Mils and Buhr, Inc. for a five (5) year term. The first two task orders covered the North Seaford Medic Station 110 with a budget up to \$150,000. The intent was to match the Rehoboth/Lewes station design; however, the State’s fire prevention code has changed now requiring a fire suppression sprinkler system in the building. By the end of May 2019, all permits were in hand and in June, a building permit was issued. In addition, the County received DNREC approval to use an onsite septic system until the Western Sussex Sewer Service is available. In June 2019, the project was bid and in July 2019, four (4) bids were received. The station cost was significantly higher than the last station built mostly due to the on-site fire suppression system and the DelDOT entrance/site improvements. Mr. Medlarz reported that the EMS and Engineering Departments reached out to the City of Seaford to discuss the possibility of accelerating the extension of public water service to the site and that the availability of public water, in conjunction with some value engineering design modifications, could result in a better overall project with significantly less maintenance responsibility by the County. Mr. Medlarz stated that the EMS and Engineering Departments recommend rejection of

Project Update (continued) all bids and authorization to rebid with a modified scope as well as approval of Architectural Task Order No. 3 for GMB to cover rebidding, Contract Administration and Inspection Services not to exceed \$104,400.00. Additionally, the Departments are requesting authorization to enter into negotiations with the City of Seaford regarding public water service to be presented to both elected bodies for review and approval.

M 423 19 Reject and Rebid Project/ Contract C19-08/ EMS 200/ Medic 110 Station A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that all bids for Contract C19-08, EMS 200 / Medic 110 Station, be rejected and that the Contract be re-bid.

Motion Adopted: 5 Yeas.

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

M 424 19 Authorize Negotiations with City of Seaford/ Water Service for Paramedic Station A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council authorizes negotiations with the City of Seaford regarding public water service to the Paramedic Station, with final approval by the Sussex County Council.

Motion Adopted: 5 Yeas.

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

M 425 19 Approve Task Order to the Architectural Services Contract with GMB A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Task Order No. 3 to the Architectural Services Contract with George, Miles & Buhr be approved in the amount not to exceed \$104,400.00 for Contract Administration and Inspection Services and re-bidding efforts associated with EMS 200 / Medic 110 Station, Contract 19-08.

Motion Adopted: 5 Yeas.

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

Infra-structure Use Agreement John Ashman, Director of Utility Planning, presented a proposed Use of Existing Infrastructure Agreement with Stafford Street Capital, LLC for the Sunset Glen project in the West Rehoboth Area.

M 426 19 A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that

M 426 19
Approve
Use of
Existing
Infra
structure
Agreement/
Sunset Glen
(continued)

the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Stafford Street Capital, LLC for a capacity allocation in the Regional Transmission System, 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

Old
Business/
CZ 1882

Under Old Business, Mr. Moore reported on the record remaining open on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-2 MEDIUM COMMERCIAL DISTRICT TO A HR-1 HIGH-DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 15.2 ACRES, MORE OR LESS” (Change of Zone No. 1882) filed on behalf of Nassau DE Acquisition Co., LLC.

Mr. Moore stated that, at the end of the Public Hearing on July 23, 2019, action was deferred and the record was left open for fifteen days for Council members to ask questions of staff and State agencies (in writing); that fifteen (15) day period has passed. Thereafter, a question arose as to whether or not the answers should come in during that same fifteen (15) day period. Mr. Moore noted that, since questions are being submitted to outside agencies, responses would not come back in that period of time. Mr. Moore also noted that this application has had a great deal of public interest and is a large project; therefore, Council wants to make sure that everyone knows what the process is. Mr. Moore proposed that the Council reopen the public record (not the Public Hearing) for strictly the purpose of determining what time period the record is to be left open for receipt of the responses to the questions and for the public to review the answers received. It was noted that all of the answers have been received with the exception of one; since they were received after the 15 day period passed, Mr. Moore has asked that they be held and not distributed until the record is reopened.

M 427 19
Reopen
Record/
CZ 1882

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to reopen the record, not the Public Hearing, on Change of Zone No. 1882 filed on behalf of Nassau DE Acquisition, LLC, for the limited purpose of clarifying and establishing the length of time that the record is to be left open.

Motion Adopted: 5 Yeas.

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

**Reopening
of Record/
CZ 1882**

It was noted that the questions are currently available for public access as they were received while the public record was open. The questions are available in the Planning and Zoning Office; the questions may also be requested by email. The responses received will be available and made public once the record has been officially reopened by the Council. Thereafter, per policy, the Applicant and members of the public will have five days to respond to the questions and answers (in writing).

It was further noted that the reopening of the record shall be advertised.

**M 428 19
Go Into
Executive
Session**

At 11:07 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, to recess the Regular Session and go into Executive Session to discuss matters relating to personnel, pending litigation, and land acquisition.

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 11:10 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to personnel, pending litigation, and land acquisition. The Executive Session concluded at 12:07 p.m.

**M 429 19
Reconvene
Regular
Session**

At 12:09 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 3 Yeas, 2 Absent.

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

E/S Action

There was no action on Executive Session matters.

**M 430 19
Recess**

At 12:10 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, to recess until 1:30 p.m.

Motion Adopted: 3 Yeas, 2 Absent.

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

**M 431 19
Reconvene**

At 1:33 p.m., a Motion was made by Mr. Burton, seconded by Mr. Hudson, to reconvene.

**M 431 19
(continued)**

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**

Rules

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

Mr. Wilson joined the meeting.

**Public
Hearing/
CZ 1885**

A 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 C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.015 ACRES, MORE OR LESS” (Change of Zone No. 1885) filed on behalf of 36191 DWB, LLC (Tax I.D. No. 533-19.00-15.00) (911 Address: 36191 Lighthouse Road, Selbyville).

The Planning and Zoning Commission held a Public Hearing on this application on July 25, 2019 at which time action was deferred. On August 8, 2019, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated July 25, and August 8, 2019.)

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

The Council found that Tim Willard, Attorney, was present with the Applicant, Darryl Brasure. Mr. Willard stated that Mr. Brasure owns the property next door; that combined, the properties total approximately 2+ acres; that his auto parts business is located on the adjacent property; that his brother has a carpet store also adjacent to this property; that the property is adjacent to a C-1 property (auto repair) on the west, and adjacent to another C-1 property (carpet care); that a MR property is located to the rear of the subject property; that other commercial uses in the area include a McDonalds and a CVS; that there is more substantial commercial activity located along Lighthouse Road, Zion Road, and Americana Parkway; that a church and community center is located across the street and they have submitted a letter in support of this application; that the property is not viable as an AR-1 zoned property; that the property will be served by County sewer and that the property is currently serviced by well water; that Tidewater has a tower on the adjacent property and it may be available in the future; that, previously, there was a Conditional Use on the property for the sale of lighthouses; that no Traffic Impact Study was required; that the same entrance will be used; that the change of zone is an extension of the adjacent property which is already zoned as commercial and which is owned by the same owners; and that the application is

**Public
Hearing/
CZ 1885
(continued)**

consistent with the Zoning Code and Comprehensive Plan.

There were no public comments.

The public record and Public Hearing were closed.

**M 432 19
Adopt
Ordinance
No. 2678/
CZ 1885**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson to Adopt Ordinance No. 2678 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.015 ACRES, MORE OR LESS” (Change of Zone No. 1885) filed on behalf of 36191 DWB, LLC.

Motion Adopted: 5 Yeas.

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

**M 433 19
Adjourn**

At 1:48 p.m., a Motion was made by Mr. Rieley, seconded by Mr. Wilson, to adjourn.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

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