

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 22, 2020

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 22, 2020, at 10:00 a.m., in Council Chambers, 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 361 20
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of August 25, 2020 were approved by consent.

**Public
Comments**

Public comments were heard and the following spoke: Eul Lee, Paul Reiger and Kevin Burdette.

**DelDOT
MOU
Update
and
Consider-
ation**

Mr. Lawson reported that the County has been working with the Delaware Department of Transportation (DelDOT) since 2019 to update the Memorandum of Understanding (MOU) for land development coordination. The current MOU has been in place since 1988. Since the Public Hearing held in January 2020, staff has addressed the feedback received and worked with DelDOT on updating the document. In July 2020, an update was provided to Council and based on feedback, the County again worked with DelDOT in regard to changes and suggestions. Mr. Lawson noted that since the packet was posted and distributed to Council, there has been a single word edit. Vince Robertson, Assistant County Attorney, reviewed the proposed changes that have been made to the previous version which was presented to Council on July 14, 2020.

**M 362 20
Approve
2020
DelDOT
MOU**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the 2020 Sussex County / Delaware Department of Transportation Memorandum of Understanding for land development coordination, as presented, effective immediately.

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/
Proposed
Island
Watersports
Expansion**

A Public Hearing was held to consider expanding the boundary of the Bay View Estates Area of the Sussex County Unified Sanitary Sewer District to include a property known as Island Watersports - Bay View Estates Area. John Ashman, Director of Utility Planning, reported that the expansion was requested by Mike Ferrari from Island Watersports for Parcel 533-11.00-287.02. The parcel is located along Williamsville Road and is contiguous to the County's existing sewer district boundary. The expansion will consist of 5.40 acres, more or less. The parcels will be responsible for system connection charges of \$6,360.00 per EDU based on current rates.

There were no public comments.

The Public Hearing and public record were closed.

**M 363 20
Adopt
R 012 20**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 012 20 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) BAY VIEW ESTATES AREA, TO INCLUDE THE ISLAND WATERSPORTS PROPERTY LOCATED IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, IN AND FOR SUSSEX COUNTY, DELAWARE".

Motion Adopted: 5 Yeas.

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

**DelDOT
TID
Update
and
Discussion**

Sarah Coakley, Principal Planner with DelDOT, gave a presentation on the Delaware Department of Transportation (DelDOT) Henlopen Transportation Improvement District (TID). Also present were the following DelDOT staff members who were in attendance to provide an update and associated information: Jennifer Cohan, Secretary of DelDOT, Mark Coté, Director of Planning, and Shanté Hastings, Chief Engineer. Ms. Coakley stated that DelDOT last attended a Council meeting on November 19, 2019 to discuss the Henlopen TID. Thereafter, DelDOT held a successful public workshop in February 2020. Ms. Coakley discussed the

**DelDOT
TID
Update
and
Discussion
(continued)**

following: (1) the terms of the initial agreement to establish the TID, (2) the terms of an Infrastructure Recoupment Agreement to be executed with individual developers within the TID, and a draft infrastructure fee program. Ms. Coakley discussed the elements included in the TID Agreement including TID boundaries, specific service standards, land use map and transportation improvement map, TID Capital Transportation Program, and an initial fee schedule. Also discussed were administrative procedures, development contributions, transitional rules, monitoring program, and public involvement. Ms. Coakley also discussed the included elements and administrative procedures for the Infrastructure Recoupment Agreement. Also discussed was the Infrastructure Fee Program.

DelDOT and Council discussed reasons for creating a TID: comprehensive infrastructure planning, TID projects advance in DelDOT's CTP, TID fees stay local, equitable treatment of competing developers, known costs for developers, and expedited development reviews.

Mr. Lawson referenced the amount of information presented on the proposed Henlopen TID stating that Council can review the information and contact him with any questions/comments. Mr. Lawson noted that since this is an agreement with an agency, a Public Hearing is not required, unless Council decides otherwise.

No action was taken on this date.

**Public
Hearing/
Proposed
Property
Main-
tenance
Ordinances
Amending
Chapters
52, 80
and 115**

A Public Hearing was held on the following three Proposed Ordinances:

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

“AN ORDINANCE TO AMEND CHAPTER 80 (“LOT MAINTENANCE”) OF THE CODE OF SUSSEX COUNTY RELATING TO LOT MAINTENANCE, INCLUDING THE ADOPTION OF ENFORCEMENT AND PENALTY PROVISIONS PURSUANT TO TITLE 9, CHAPTER 72 OF THE DELAWARE CODE”

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

**Public Hearing/
Proposed Property Maintenance Ordinances Amending Chapters 52, 80 and 115 (continued)**

On August 13, 2020, the Planning and Zoning Commission held a Public Hearing on these Proposed Ordinances at which time the Commission recommended approval, subject to the revisions recommended by legal staff.

(See the minutes of the Planning and Zoning Commission dated August 13, 2020.)

Mike Costello, Government Affairs Manager, reported that, on February 10, 2020, Governor Carney signed H.B. 118 into law authorizing Sussex County Council to promulgate, administer and enforce property maintenance ordinances, rules and regulations.

Mr. Costello gave a presentation on Sussex County property maintenance complaints and enforcement; he discussed three avenues of enforcement which are: criminal enforcement, civil enforcement, and administrative enforcement. Mr. Costello stated that the current process is a criminal enforcement process and that a new administrative approach would allow the County to have an in-house program which better allows for the timely correction of violations. It would require a method for appealing a violation and that could be done by authorizing the Board of Adjustment and Appeals to hear property maintenance cases. It would also empower the property owners in their efforts to correct the conditions by making requests for extensions. A notice of violation provided to the owner would serve as the only notice for the year. Properties engaged in active agricultural uses are exempt from these ordinances as they are under the current process. The proposed administrative process would allow for Code officials to issue a ticket to an owner or person responsible when they fail to correct a violation; the proposed fine is set at \$100.00 and there would be a mechanism for appeal. Under the proposed procedure, fines and costs that go unpaid would be added to the real estate taxes for the property. Mr. Costello stated that in an administrative enforcement approach, sections of the County Code need to be amended to accommodate the process. Mr. Costello reviewed the four steps of the new process. Mr. Costello reported that items added to the list of items to be considered under the property maintenance code are inoperable appliances and tires. Currently, the County does not have any regulations on either of these items. Under the proposed revisions, 20 or more tires become a violation. It was noted that DNREC does have jurisdiction over tire piles of 100 or more (scrap tires only). Mr. Costello reviewed the compliance timeline stating that they want cases closed out in 30 days or less and a process is needed to abate it or compel owners to take care of a violation. Mr. Costello stated that these ordinance modifications will help by providing compliance periods that are realistic for the violation, matters will be removed from the criminal justice system, the notification system will be less restrictive and costly, recovering abatement costs will be simplified, due process will take place in a timely manner, and compliance will be achieved much faster.

Public comments were heard.

**Public Hearing/
Proposed
Property
Main-
tenance
Ordinances
Amending
Chapters
52, 80, 115
(continued)**

Paul Reiger spoke in support of the Proposed Ordinances and commented on the need for tire regulations.

There were no additional public comments.

Mr. Moore questioned the proposed amendments recommended by the Planning and Zoning Commission. Mr. Costello stated that an outline of the revisions was provided in the meeting's packets (Council packets and public packets).

The Public Hearing and public record were closed.

**M 364 20
Adopt
Ordinance
No. 2737**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2737 entitled "AN ORDINANCE TO AMEND CHAPTER 52 OF THE CODE OF SUSSEX COUNTY GRANTING THE BOARD OF ADJUSTMENTS AND APPEAL AUTHORITY TO HEAR APPEALS OF VIOLATIONS UNDER CHAPTER 80 ("PROPERTY MAINTENANCE CODE") AND CHAPTER 115 ("ZONING"), ARTICLE XXV ("SUPPLEMENTARY REGULATIONS"), §115-191 AND ITS SUBSECTIONS PERTAINING TO VEHICLES AND TRAILERS AND PROHIBITED ACCUMULATIONS".

Motion Adopted: 4 Yeas, 1 Nay.

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

**M 365 20
Adopt
Ordinance
No. 2738**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2738 entitled "AN ORDINANCE TO AMEND CHAPTER 80 ("LOT MAINTENANCE") OF THE CODE OF SUSSEX COUNTY RELATING TO LOT MAINTENANCE, INCLUDING THE ADOPTION OF ENFORCEMENT AND PENALTY PROVISIONS PURSUANT TO TITLE 9, CHAPTER 72 OF THE DELAWARE CODE", 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**

It was noted that in Title 9, Chapter 72, of the Delaware Code, an enabling statute, all references to Chapter 72 have been changed to Chapter 71 because the Code revisers renumbered the Chapter after it was signed into law.

**M 366 20
Adopt
Ordinance
No. 2739**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2739 entitled "AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, "SUPPLEMENTARY REGULATIONS", §§ 115-191

**M 366 20
Adopt
Ordinance
No. 2739
(continued)**

THROUGH 115-191.8 OF THE CODE OF SUSSEX COUNTY RELATING TO “PARKING, STORING AND MAINTAINING VEHICLES AND TRAILERS” AND “PROHIBITED ACCUMULATIONS”, INCLUDING THE ADOPTION OF ENFORCEMENT AND PENALTY PROVISIONS PURSUANT TO TITLE 9, CHAPTER 72 OF THE DELAWARE CODE”, 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**

It was noted again that in Title 9, Chapter 72, of the Delaware Code, an enabling statute, all references to Chapter 72 have been changed to Chapter 71 because the Code revisers renumbered the Chapter after it was signed into law.

**CARES
Act
CDBG-CV1
Grant
Discussion
and
Award
Recom-
mendation**

Brad Whaley, Director of Community Development and Housing, and Brandy Nauman, Housing Coordinator and Fair Housing Compliance Officer, provided an update on the CARES Act CDBG-CV1 funding received by the County. In Delaware, all of the recipients of this funding have agreed to focus on a COVID-19 pandemic response and prevention through eligible public services. Delaware State Housing Authority (DSHA) had about \$1 million set aside for Sussex County; they are retaining a significant portion of that funding for a direct partnership with Delaware Health and Social Services and State Service Centers for hotel/motel vouchers for homelessness. Also there are administrative costs leaving a balance of \$250,000 eligible to distribute by Sussex County. This funding was made available via an advertised competitive application process. The County’s Community Development Office received seventeen (17) applications for this funding. The Scoring Committee reviewed, scored and ranked the applications. Mr. Whaley presented the funding recommendation totaling \$250,000.00, as follows: La Red Health Center - \$50,000; Community Legal Aid Society - \$50,000; Community Resource Center - \$50,000; Jesus Love Evangelist Assoc. - \$5,600; La Esperanza - \$25,700; Boys & Girls Club of DE - \$25,000; LOVE INC/Code Purple - \$33,700; Harry K Foundation - \$10,000. Ms. Nauman noted that before any funding is distributed, there will be a review process and contract with the DSHA and the awarded entities. Ms. Nauman noted that even though all seventeen (17) applications could not be funded, they are all eligible to apply directly to the DSHA for the second and third round of the CARES Act funding.

**M 367 20
Approve
CARES
Act – CDBG
CVI Award
Allocation**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that the Sussex County Council approves the recommended CARES Act CDBG-CV1 award allocations, as presented.

Motion Adopted: 5 Yeas.

**M 367 20
(continued)**

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

**IBRWF
Biosolids &
Septage
Facilities
Project
18-19**

Hans Medlarz, County Engineer, gave an overview of the Inland Bays Regional Wastewater Facility – Biosolids & Septage Facilities (Project 18-19) and presented requests for a Change Order and Spare Parts Procurement for the bio-solids drying system portion of the project.

**M 368 20
Approve
C/O for
Contract
18-19**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 7 for Contract No. 18-19, Inland Bays Regional Wastewater Facility – Biosolids & Septage Facilities, be approved, increasing the contract amount by \$56,432.84 for a new contract total of \$13,965,082.43.

Motion Adopted: 5 Yeas.

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

**M 369 20
Approve
Purchase
Order/
Contract
18-19**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, to approve a purchase order in the net amount of \$128,603.00 to Komline-Sanderson to purchase start-up parts for the drying system.

Motion Adopted: 5 Yeas.

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

**Project
19-01 C/O**

Hans Medlarz, County Engineer, presented a Change Order to the FY 2019 General Labor & Equipment Contract Project (Project No. 19-01).

**M 370 20
Approve
C/O
Project
19-01**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1, FY 2021, for Contract 19-01, FY 2019 General Labor & Equipment Contract, be approved, increasing the contract amount by \$2,100,000 for a new total of \$7,270,000.

Motion Adopted: 5 Yeas.

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

**SCRWF
Treatment
Process
Upgrade/
Rehoboth
Beach WTP
Project**

Hans Medlarz, County Engineer, updated the Council on the South Coastal RWF Treatment Process Upgrade No. 3 and Rehoboth Beach WTP Capital Improvement Program, Phase 2, and the following related items: a Town of Selbyville Outfall Agreement, Change Order No. 5 to the General Construction Project C19-11, Change Order No. 6 and 7 to the Electrical Construction Project C19-17, and Material Screening Purchase Order update.

**M 371 20
Approve
Change
Orders/
Contract
19-17**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order Nos. 6 and 7 for Contract 19-17, South Coastal Wastewater Treatment Plant Process Upgrade No. 3 and Rehoboth Beach Wastewater Treatment Plant Capital Improvement Program, Phase 2, Electrical Construction, be approved, increasing the contract by \$16,500.00 and \$307,300.00 respectively, for a new contract total of \$21,785,529.20.

Motion Adopted: 5 Yeas.

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

**M 372 20
Approve
Change
Order/
Contract
C19-11**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 5 for Contract C19-11, South Coastal Treatment Plant Process Upgrade No. 3 and Rehoboth Beach Wastewater Treatment Plant Capital Improvement Program, Phase 2, General Construction, be approved, increasing the contract by \$32,991.66, for a new contract total of \$40,604,559.63.

Motion Adopted: 5 Yeas.

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

**Request
to Post
Notices/
Friendship
Hall
Expansion**

John Ashman, Director of Utility Planning, presented a request to prepare and post notices for a Public Hearing on the Proposed Friendship Hall Expansion of the Sussex County Unified Sanitary Sewer District. The proposed expansion includes Parcel 134-16.00-39.00. The expansion would consist of 47.72 acres, more or less. The request was received from Solutions IPEM on behalf of their client RH Orr, LLC, the owners/developers of the proposed Friendship Hall project. Friendship Hall is proposing 133 condos with a clubhouse, located south of the Forest Landing community along Central Avenue, and is contiguous to an existing district boundary.

**M 373 20
Authorize
Notices**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Engineering Department is authorized to prepare and post notices for the Friendship Hall Expansion of the Sussex County Unified

M 373 20 **Sanitary Sewer District (Miller Creek Area), as presented.**
Authorize
Notices **Motion Adopted: 5 Yeas.**
for the
Friendship **Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**
Hall Exp. **Mr. Wilson, Yea; Mr. Burton, Yea;**
(continued) **Mr. Vincent, Yea**

Request to **John Ashman, Director of Utility Planning, presented a request to prepare**
Post Notices/ **and post notices for a Public Hearing on the Proposed Countryside Hamlet**
Countryside **Expansion of the Sussex County Unified Sanitary Sewer District (Dagsboro**
Hamlet **Frankford Area). The proposed expansion includes Parcel 533-4.00-20.00.**
Expansion **The expansion would consist of 10.98 acres, more or less. The request was**
 received from Matthew Davis, Manager of the Countryside Hamlet.
 Countryside Hamlet Mobile Home Park is an existing 47 lot subdivision
 located south of Frankford on Lazy Lagoon Road, and is contiguous to an
 existing district boundary.

M 374 20 **A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the**
Authorize **Sussex County Engineering Department is authorized to prepare and post**
Notices **notices for the Countryside Hamlet Expansion of the Sussex County Unified**
for the **Sanitary Sewer District (Dagsboro Frankford Area), as presented.**
Countryside
Hamlet **Motion Adopted: 5 Yeas.**
Expansion **Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**
 Mr. Wilson, Yea; Mr. Burton, Yea;
 Mr. Vincent, Yea

Grant
Requests **Mrs. Jennings presented grant requests for the Council's consideration.**

M 375 20 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give**
Council- **\$3,500.00 (\$2,500.00 from Mr. Rieley's Councilmanic Grant Account and**
manic **\$500.00 each from Mr. Hudson's and Mr. Vincent's Councilmanic Grant**
Grant **Accounts) to Delaware Botanic Gardens for their annual fundraiser.**

Motion Adopted: 5 Yeas.

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

M 376 20 **A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give**
Countywide **\$5,000.00 (\$2,000.00 from Countywide Youth Grants, \$2,500.00 from Mr.**
Youth **Rieley's Councilmanic Grant Account, and \$500.00 from Mr. Vincent's**
Grant and **Councilmanic Grant Account) to Clothing Our Kids for program expenses.**
Council-
manic **Motion Adopted: 5 Yeas.**
Grant

**M 376 20
(continued)**

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

**M 377 20
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Hudson, to give \$2,500.00 from Mr. Wilson's Councilmanic Grant Account to the Town of Georgetown for the South Race Street dining area beautification project.

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
Ordinances**

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GO-KART TRACK AND CONCESSION, GO-KART REPAIR AND SALES SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 78.36 ACRES, MORE OR LESS" (Conditional Use No. 2238) filed on behalf of Michael Parsons (Tax I.D. No. 234-10.00-102.03 & 103.00) (911 Address: 20478 Beaver Dam Road, Harbeson).

Mr. Hudson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PUBLIC UTILITY ELEVATED STORAGE TANK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.32 ACRE, MORE OR LESS" (Conditional Use No. 2240) filed on behalf of Tidewaters Utilities, Inc (Tax I.D. No. 334-12.00-107.00 (portion of) (911 Address: 19483 John J. Williams Highway, Lewes).

Mr. Rieley 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 25.63 ACRES, MORE OR LESS" (Change of Zone No. 1925) filed on behalf of Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut (Tax I.D. No. 134-19.00-22.00 (portion of) (911 Address: None Available).

Mr. Rieley introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM-DENSITY RESIDENTIAL DISTRICT, RESIDENTIAL

**Introduction
of Proposed
Ordinances
(continued)**

PLANNED COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF CZ 1538 (ORDINANCE 1700) IN RELATION TO PIERS, DOCKS, BOAT RAMPS AND OTHER WATER RELATED RECREATIONAL FACILITIES FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS” (Change of Zone No. 1926) filed on behalf of CP Townhomes, LLC (Tax I.D. No. 334-13.00-334.00, 1448.00 through 1750.00) (911 Address: None Available).

Mr. Rieley introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRUCK AND TRAILER REPAIR BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.69 ACRES, MORE OR LESS” (Conditional Use No. 2241) filed on behalf of Jonathan J. Bowman (Tax I.D. No. 333-7.00-32.00) (911 Address: 34647 Millsboro Highway, Millsboro).

The Proposed Ordinances will be advertised for Public Hearing.

**Adminis-
trator’s
Report**

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

1. Sussex County AAA Bond Rating

On Friday, September 11, 2020, S & P Global Ratings moved the County’s general obligation bond rating from AA+ to AAA, the highest mark possible. The bump up is the second change in the County’s bond rating in the past 14 months, mirroring one from Moody Investor Services in July 2019. Concurrent with S&P’s action, Moody’s also reviewed and maintained its top Aaa rating for the County.

S & P said in its rating action statement “the County’s diversifying and growing economy and its strong financial management practices that, among other things, have led to very strong budgetary performance over several years, including during the current and past recessions”. The County was praised for its “conservative and prudent budgeting practices,” noting those, along with healthy reserves, have positioned the County well in the face economic pressures brought on by the COVID-19 pandemic.

The credit for this great accomplishment goes to the County Finance Director, Ms. Gina Jennings, for her management of the County’s finances and oversight of its operations. Her practices are the reason for the County accomplishing a AAA bond rating. Congratulations to Ms. Jennings and her staff.

2. Projects Receiving Substantial Completion

Administrator's Report (continued)

Per the attached Engineering Department Fact Sheets, Silver Woods – Phase 5A and H&D Townhouses (AKA Sea Edge) received substantial completion effective September 15th and September 18th respectively.

3. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for August 2020 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 194 troopers assigned to Sussex County for the month of August.

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

**M 378 20
Go Into
Executive
Session**

At 1:00 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session to discuss matters relating to land acquisition.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Executive
Session**

At 1:05 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to land acquisition. This portion of the Executive Session ended at 1:35 p.m. to be continued after the 1:30 p.m. public hearings.

**M 379 20
Reconvene
Regular
Session**

At 1:37 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: 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

Mr. Moore reported that no action was needed on Executive Session items and that the Executive Session would reconvene following the 1:30 p.m. public hearings.

Rules

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

**Public
Hearing/
CU 2227**

A Public Hearing was held on 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).

The Planning and Zoning Commission held a Public Hearing on this application on August 13, 2020 at which time action was deferred. On August 27, 2020, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated August 13 and 27, 2020.)

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

The Council found that David Hutt was present on behalf of the Applicants. He stated that the application is for a borrow pit; that the site was used previously for a borrow pit (1960s to 1970s); that currently, the woodlands are trying to reclaim the borrow pit area; that the 2018 Comprehensive Plan designates this area as a rural area; that the 2020 State Strategies Map identifies this area as being in an Investment Level 4 Area; that the property consists of approximately 150 acres and approximately 33 of those acres are crop land and the balance of the property is wooded; that there are no disturbed wetlands; that this property has been submitted to an Agricultural Preservation District; that the approximately 20-acre portion of the property for the proposed borrow pit location is not within the limits of the District; that the final reclamation plan is for a wildlife pond surrounded by woods on the property; that the proposed borrow pit will be approximately 15 acres; that there will be a 50 foot buffer; that DelDOT did not require a Traffic Impact Study; that a water truck will be available to wet down gravel roads to control dust; that this borrow pit will meet the six special requirements (in Section 172 of the Zoning Code) for a borrow pit; that there is a need for the product from the borrow pit; and that the proposed use is of a semi-public nature; that the location is ideal for the proposed use; and that much of the land owned in the immediate area is owned by the Applicants.

There were no public comments.

The Public Hearing and public record were closed.

**M 380 20
Adopt
Ordinance
No. 2740**

A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2740 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

**M 380 20
Adopt
Ordinance
No. 2740
(continued)**

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, with the following conditions:

- a. **The Conditional Use shall comply with all of the requirements of Section 115-172B of the Sussex County Zoning Code regarding borrow pits.**
- b. **No materials shall be brought from off the site for processing, mixing or similar purposes.**
- c. **The borrow pit area shall not exceed 20 acres, which includes the 50-foot buffer around the pit area.**
- d. **Water or a water truck shall be available to control dust from road traffic when conditions require.**
- e. **There shall be a single entrance to the pit. That entrance shall be via Asbury Road and it shall be fenced or gated to prevent unauthorized access.**
- f. **Any roadway and entrance improvements required by DelDOT shall be completed by the Applicant.**
- g. **Borrow pit operations shall only be between 7:00 a.m. to 5:00 p.m. Monday through Friday and 7:00 a.m. to 2:00 p.m. on Saturdays. No Sunday hours shall be permitted.**
- h. **No materials shall be stored on any access roads or within any buffer area.**
- i. **No fuel shall be stored on-site.**
- j. **No stumps, branches, debris or similar items shall be buried or placed in the site of the borrow pit.**
- k. **Any safety lights shall be downward screened so that they do not shine on neighboring properties or roadways.**
- l. **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 proposed borrow pit will not exceed 50 feet.**
- m. **Permanent concrete markers or signs shall be placed at appropriate locations to designate the boundaries of the subject property and the pit areas. The markers shall be raised and marked so that they are clearly visible to anyone nearing the site.**
- n. **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.**
- o. **The Applicant shall comply with all State and County erosion and sediment control regulations.**
- p. **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**

**M 380 20
Adopt
Ordinance
No. 2740
(continued)**

- vegetation or native species vegetation.
- q. The approval shall expire 50 years from the date of approval for the conditional use ordinance.
 - r. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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/
CU 2232**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EVENTS VENUE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 98.60 ACRES, MORE OR LESS” (Conditional Use No. 2232) filed on behalf of Covered Bridge Inn, LLC (Hopkins Henlopen Homestead, LLC) (Tax I.D. No. 334-10.00-69.01) (911 Address: None Available).

The Planning and Zoning held a Public Hearing on this application on August 13, 2020 at which time action was deferred. As of this date, action is still deferred and the record is open for the receipt of the decision of the Delaware Agricultural Lands Preservation Foundation. Once received, the application will be brought back to the Planning and Zoning Commission for a recommendation. Thereafter, the matter will be placed on a County Council meeting agenda under Old Business.

(See the minutes of the Planning and Zoning Commission dated August 13, 2020.)

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

The Council found that Amy Hopkins and Ingrid Hopkins were present on behalf of the application. They stated that there is currently a Conditional Use for an events venue in one of the historic barns on the family’s working dairy farm; that the business has grown and they wish to expand to include an additional venue; that they would like to renovate another historic smaller barn to use for a smaller venue space; that the hours of operation would be Friday, Saturday and Sunday from 10:00 a.m. – 10:00 p.m.; that ADA compliant bathrooms would be provided; and that additional parking would be created.

There were no public comments.

The Public Hearing was closed.

**Public
Hearing
(continued)**

The Council's public record was closed except to remain open for a letter from the Delaware Agricultural Lands Preservation Foundation and for a recommendation from the Planning and zoning Commission.

**M 381 20
Defer
Action/
CU 2232**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to defer action on Conditional Use No. 2232 filed on behalf of Covered Bridge Inn, LLC (Hopkins Henlopen Homestead, LLC) for the purpose of leaving the record open for a letter from the Delaware Agricultural Lands Preservation Foundation and for a recommendation from the Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

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

**M 382 20
Reconvene
Executive
Session**

At 2:15 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess the Regular Session and reconvene the Executive Session.

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 2:20 p.m., an Executive Session of the Sussex County Council was held in Council Chambers for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 3:00 p.m.

**M 383 20
Reconvene
Regular
Session**

At 3:00 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Burton, to come out of Executive Session and reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

E/S Action

There was no action on Executive Session matters.

**M 384 20
Adjourn**

At 3:01 p.m., a Motion was made by Mr. Burton, 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.}