

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 8, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 8, 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

Call to Order

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

Mr. Vincent called the meeting to order.

**M 497 19
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, 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 October 1, 2019 were approved by consent.

**Public
Comments**

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

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

**Adminis-
trator's
Report**

1. 9-1-1 Awareness Day

The Sussex County Emergency Operations Center will host its 20th annual 9-1-1 Awareness Day on Thursday, October 10th, from 9:00 a.m. to 2:00 p.m. at the public safety complex located at 21911 Rudder Lane near Georgetown. The event is held each year to give the public a better understanding of how the 9-1-1 Center operates, as well as give citizens a glimpse into how police, firefighters, medical personnel, and emergency dispatchers work each day to save lives. The event also attracts hundreds of fifth-grade students from throughout the county, who spend the day watching and taking part in demonstrations that reinforce safety and preparedness.

Administrator's Report (continued)

This year's event will feature a fun and information-filled day of safety demonstrations and emergency vehicles on display, from police K-9s subduing pretend perpetrators to fire trucks, EMS units, and police units. In addition to tours of the 9-1-1 Center, displays and activities will include the Delaware State Police K-9 Team, the Blades Fire Company Safety House, the State Fire Marshal's Office, the Delaware State Fire School, the Delaware Emergency Management Agency, and the Delaware Department of Natural Resources and Environmental Control.

The event is sponsored by Sussex County and the Delaware State Police, which jointly operate the 9-1-1 Center, and is free and open to the public. A rain date is scheduled for next Thursday, October 17th.

2. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, October 15th. The next regularly scheduled Council meeting will be held on October 22nd at 10:00 a.m.

Biosolids Handling Agreement/ Town of Georgetown

Hans Medlarz, County Engineer, reported that the Town of Georgetown has approved a Biosolids Handling Agreement with the County for the treatment of biosolids at the regional biosolids handling facility at the Inland Bays Regional Wastewater Facility. Currently, four external partners have joined the biosolids regional facility under the standard agreement: Rehoboth, Seaford, Lewes Board of Public Works and Artesian (in addition to the County-owned facilities).

M 498 19 Approve Biosolids Handling Agreement/ Town of Georgetown

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that Council approves the Biosolids Handling Agreement with the Town of Georgetown, 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

Water Inter-connection Agreement/ Town of Georgetown

Hans Medlarz, County Engineer, reported that the Delaware Coastal Business Park receives potable water services as well as separate fire protection services through the County while the entities located at the Coastal Airport along Rudder Lane receive integrated water services from the Town of Georgetown. The potable County system and the Town's integrated water system are not interconnected despite only being separated by the main airport runway. On September 25, 2019, the Town Council of Georgetown approved the design and construction of an interconnection under an equal cost share basis. Mr. Medlarz reported that the Engineering Department requests approval, in principle, of the draft Water

(continued) Interconnection Agreement with the Town of Georgetown.

M 499 19 A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon
Approve the recommendation of the Sussex County Engineering Department, that
Draft the Council approves the draft Water Interconnection Agreement with the
Water Town of Georgetown, in principle.
Inter-

connection Motion Adopted: 5 Yeas.
Agreement

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

Capacity Hans Medlarz, County Engineer, reported that the Delaware Coastal
Surrender Business Park, as well as the entities located at the Coastal Airport along
Agreement/ Rudder Lane, receive wastewater treatment services from the Town of
Wastewater Georgetown under the April 23, 2018 Agreement, which was last amended
Services/ by addendum on August 14, 2018. Given the limited availability of
Town of municipal sewer capacity, the Agreement allows for the surrender of
Georgetown capacity under Article VIII by redirecting it to alternate wastewater service
providers. This option allows the Town to regain capacity beyond the
County flows without initial capital contribution, while allowing the County
to recuperate all capital funds over the life of the investment. Mr. Medlarz
reported that the Finance and Engineering Departments recommend
approval of the capacity surrender, as outlined in the Agreement.

M 500 19 A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the
Approve recommendation of the Sussex County Engineering Department, that Council
Capacity approves the capacity surrender under the Agreement for Wastewater
Surrender Services with the Town of Georgetown.
under

Agreement Motion Adopted: 5 Yeas.
for Waste-

water **Vote by Roll Call:** Mr. Hudson, Yea; Mr. Rieley, Yea;
Services/ Mr. Wilson, Yea; Mr. Burton, Yea;
Town of Mr. Vincent, Yea
Georgetown

Building Hans Medlarz, County Engineer, presented the bid results for the Building
Demolition Demolition and Site Restoration Project (Project C20-03) for the new Medic
and Site 110/EMS 200 Station site in Seaford. Five bids were received and Swain
Restoration/ Excavating, Inc. submitted the low bid of \$59,948.75. Mr. Medlarz reported
Seaford that this offer constitutes an over 50% reduction over the previous general
Paramedic contractor bid (all bids in August 2019 were rejected and Council authorized
Station the rebid of the work with a modified scope).

M 501 19 A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the
Inter- recommendation of the Sussex County Engineering Department, that
connection Contract C20-03, Building Demolition and Site Restoration, be awarded to
Agreement Swain Excavating, Inc. for their total bid of \$59,948.75.

M 501 19
Approve
Agreement
(continued)

Motion Adopted: 5 Yeas.

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

Inland Bays
Environ-
mental
Engineering
Services/
Professional
Environ-
ment
Services
Contract/
Amend-
ments/
RK&K

Hans Medlarz, County Engineer, presented Amendments 1 through 3 to RK&K's Base Engineering Agreement for additional funding for Inland Bays Environmental Engineering Services, Project 19-05. Amendment No. 1 increase in the amount not to exceed \$78,000.00 will continue the specialized assistance to the Sussex County's Working Group on buffers. The budget revision of Amendment No. 1 will carry the assistance through the development of a draft ordinance. Amendment No. 2 increase in the amount not to exceed \$90,400.00 will provide FAA compliant contract documents for a remediation project in the southern drainage basin associated with the Eli Walls Tax Ditch. Amendment No. 3 in the amount of \$69,300.00 was associated with the Statewide Community Water Quality Improvement project within Delaware's portion of the Chesapeake Bay watershed. The proposed revision to Amendment No. 3 will cover final construction documents for the Bridgeville Branch Project, as well as documenting the water quality credits, in an additional amount not to exceed \$69,300.00 and a transfer from the base contract not to exceed \$28,000.00.

M 502 19
Approve
Contract
Amend-
ments/
RK&K

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Amendments No. 1 through No. 3 to the Professional Environmental Services Contract with RK&K be increased in the respective amounts of \$78,000.00, \$90,400.00 and \$69,300.00, allowing the expanded and more definitive scopes to provide specialized assistance addressing a wide range of environmental issues.

Motion Adopted: 5 Yeas.

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

M 503 19
Approve
Transfer/
RK&K
Contract
to Amend-
ment No. 3

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the transfer of \$28,000.00 from the Base Professional Environmental Services Contract with RK&K to Amendment No. 3.

Motion Adopted: 5 Yeas.

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

**Bid Results/
Herring
Creek and
Chapel
Branch SSD**

Hans Medlarz, County Engineer, presented the bid results for the Herring Creek & Chapel Branch Sanitary Sewer District with Robinsonville Road Development Area Pump Stations (Contract S20-06). The lowest responsive bidder was Chesapeake Turf, LLC at \$5,256,760.00 for the project's base bid.

**M 504 19
Award
Bid/
Contract
S20-06/
Herring
Creek and
Chapel
Branch
SSD**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Contract S20-06, Herring Creek & Chapel Branch Sanitary Sewer Districts with Robinsonville Road Development Area Pump Stations, be awarded to Chesapeake Turf, LLC, for their base bid of \$5,256,760.00, contingent upon USDA concurrence.

Motion Adopted: 5 Yeas.

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

Rules

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

**Public
Hearing/
Manu-
factured
Homes
and Housing
Ordinance**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, XXV, XXVI, AND XXVII BY AMENDING SECTIONS 115-20, 115-23, 115-187, 115-196 AND 115-210 REGARDING MANUFACTURED HOMES AND MANUFACTURED HOUSING".

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on October 1, 2019 at which time the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated October 1, 2019.)

Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, were in attendance to present the Proposed Ordinance.

Ms. Cornwell summarized the proposed changes to the Zoning Code; that manufactured homes in the AR-1 Zoning District at present may only be five years old at the time of placement; that it was proposed to increase this to 10 years; that the minimum lot size is 0.75 acres; and that it is proposed to reduce this to allow a manufactured home on an existing parcel even if it is less than 0.75 acres.

Ms. Cornwell reported that there is one recommended amendment to the Proposed Ordinance due to an old Code reference regarding "convalescent homes". Mr. Robertson stated that the reference to "Convalescent homes, nursing homes or homes for the aged" has no relevance to the substance of

**Public Hearing/
Manu-
factured
Homes
and Housing
Proposed
Ordinance
(continued)**

this Proposed Ordinance regarding manufactured homes other than to throw off the numbering of the subsections that come after it.

Public comments were heard.

Dan Kramer raised questions regarding the Proposed Ordinance relating to deed restrictions/recorded covenants. Mr. Kramer highlighted other proposed changes. Mr. Kramer stated that there should be a copy of all Proposed Ordinances highlighting the proposed changes with a “clean” copy also provided.

There were no additional public comments.

Ms. Cornwell and Mr. Robertson advised that Council cannot enforce deed restrictions. Also discussed was a concern about the placement of manufactured homes in an approved subdivision with no covenants.

The Public Hearing and public record were closed.

**M 505 19
Amend
Proposed
Ordinance**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that Section 2, regarding Chapter 115, Article IV, §115-23C, at Line 160, be amended to delete “(4) Convalescent homes, nursing homes or homes for the aged.” and renumber the following subsections accordingly.

Motion Adopted: 5 Yeas.

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

**M 506 19
Adopt
Ordinance
No. 2682**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2682 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, XXV, XXVI, AND XXVII BY AMENDING SECTIONS 115-20, 115-23, 115-187, 115-196 AND 115-210 REGARDING MANUFACTURED HOMES AND MANUFACTURED HOUSING”, 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**

**Public
Hearing**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VIII, X, XA, XB, XIB, XIC, XID, XIE, XIF, XIII, XIV, AND XV BY AMENDING SECTIONS 115-21, 115-30, 115-54, 115-70, 115-75.3, 115-75.10, 115-83.12, 115-19, 115-83.27, 115-83.34, 115-83.41, 115-95, 115-103, 115-112 AND TABLE IV REGARDING THE

**Public Hearing/
Proposed Ordinance/
Use of Man-
ufactured Home-type
Structures
as
Temporary Buildings
(continued)**

USE OF MANUFACTURED HOME-TYPE STRUCTURES AS TEMPORARY BUILDINGS INCIDENTAL TO CONSTRUCTION OPERATIONS OR THE SALE OF LOTS”.

The Planning and Zoning Commission held a Public Hearing on this application on October 1, 2019 at which time the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated October 1, 2019.)

Janelle Cornwell, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, were in attendance to present the Proposed Ordinance.

Ms. Cornwell summarized the Proposed Ordinance stating that, if approved, requests for use of manufactured home-type structures used for sales and construction trailers would be subject to an administrative approval process; that the Director of Planning and Zoning would be able to administratively approve such requests where the manufactured home-type structure is to be used for a temporary period; that the temporary use could be approved for 2 years and that an extension could be granted for a specified period of time by the Director; and that there would still be a mechanism for a public hearing where the manufactured home-type structure is required for a longer period of time.

Public comments were heard.

Dan Kramer questioned if the Proposed Ordinance affects the use of manufactured homes as special use exceptions for an emergency or hardship situation.

Staff responded to Mr. Kramer, stating “No”.

There were no additional public comments.

The Public Hearing was closed.

**M 507 19
Adopt
Ordinance
No. 2683**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2683 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115, ARTICLES IV, V, VIII, X, XA, XB, XIB, XIC, XID, XIE, XIF, XIII, XIV, AND XV BY AMENDING SECTIONS 115-21, 115-30, 115-54, 115-70, 115-75.3, 115-75.10, 115-83.12, 115-19, 115-83.27, 115-83.34, 115-83.41, 115-95, 115-103, 115-112 AND TABLE IV REGARDING THE USE OF MANUFACTURED HOME-TYPE STRUCTURES AS TEMPORARY BUILDINGS INCIDENTAL TO CONSTRUCTION OPERATIONS OR THE SALE OF LOTS”.

**M 507 19
(continued)**

Motion Adopted: 5 Yeas.

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

**Report/
P&Z
Recom-
mendation
and
Record
Closing/
CU 2183
CU 2184
and
CU 2187**

Janelle Cornwell, Planning and Zoning Director, reported that on September 24, 2019, the Sussex County Council held a Public Hearing on Conditional Use No. 2183 filed on behalf of Brent and Lisa Hershey at which time action was deferred for a recommendation from the Planning and Zoning Commission. On September 26, 2019, the Planning and Zoning Commission made a recommendation of approval with conditions. Per County procedure, the record was left open for five (5) days for comments on that recommendation; no comments were received and on October 1, 2019, the record was closed.

Janelle Cornwell, Planning and Zoning Director, reported that on September 24, 2019, the Sussex County Council held a Public Hearing on Conditional Use No. 2184 filed on behalf of Linda Ann Yupco-Connors at which time action was deferred for a recommendation from the Planning and Zoning Commission. On September 26, 2019, the Planning and Zoning Commission made a recommendation of denial. Per County procedure, the record was left open for five (5) days for comments on that recommendation; no comments were received and on October 1, 2019, the record was closed.

Janelle Cornwell, Planning and Zoning Director, reported that on September 24, 2019, the Sussex County Council held a Public Hearing on Conditional Use No. 2187 filed on behalf of Daniel Ostinvil at which time action was deferred for a recommendation from the Planning and Zoning Commission. On September 26, 2019, the Planning and Zoning Commission made a recommendation of denial. Per County procedure, the record was left open for five (5) days for comments on that recommendation; no comments were received and on October 1, 2019, the record was closed.

**Old
Business/
CZ 1883**

Under Old Business, the Council considered Change of Zone No. 1883 filed on behalf of OA-BP Marina Bay-Lakeside, LLC (The Peninsula).

The Planning and Zoning Commission held a Public Hearing on this application on June 27, 2019 at which time action was deferred. On July 18, 2019, the Commission recommended approval, with the following condition:

Condition No. 1 of Change of Zone No. 1475 and Ordinance No. 1573 should be amended as follows:

“The maximum number of units shall not exceed 1,394 units comprised, as follows:

Amended as underlined on this page only; amendments approved on December 17, 2019.

Old *353 Single Family Lots*
Business/*388 Single Family Detached Condominiums*
CZ 1883 *270 Single Family Attached Town Houses*
(continued) *378 Multi-Family Units”*

The Council held a Public Hearing on this application on July 30, 2019 at which time action was deferred.

M 508 19 A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt
Adopt Ordinance No. 2690 entitled “AN ORDINANCE TO AMEND THE
Ordinance COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A
No. 2690/ MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-
CZ 1883 RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM
DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED
COMMUNITY TO AMEND CONDITIONS OF APPROVAL OF
CHANGE OF ZONE NO. 1475 (ORDINANCE NO. 1573) FOR A
CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER
HUNDRED, SUSSEX COUNTY, CONTAINING 787.787 ACRES, MORE
OR LESS” (Change of Zone No. 1883) filed on behalf of OA-BP Marina
Bay-Lakeside, LLC (Tax I.D. No. 234-30.00-1.00 through 430.00) (911
Address: None Available), with the following condition:

Condition No. 1 of Change of Zone No. 1475 and Ordinance No. 1573 is hereby amended as follows:

“The maximum number of units shall not exceed 1,394 units comprised, as follows:

358 Single Family Lots
388 Single Family Detached Condominiums
270 Single Family Attached Town Houses
378 Multi-Family Units”

Motion Adopted: 5 Yeas.

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 509 19 A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to give \$500.00
Council- (\$100.00 from each Councilmanic Grant Account) to the Marine Corps
Grant League for Delaware Devil Dogs Detachment #780 for Birthday Ball
Fundraiser.

**M 509 19
(continued)**

Motion Adopted: 5 Yeas.

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

**M 510 19
Council-
manic
Grant**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give \$2,000.00 (\$1,000.00 each from Mr. Burton's and Mr. Hudson's Councilmanic Grant Accounts) to Delaware Celebration of Jazz for the Rehoboth Beach Jazz Festival.

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
Ordinance**

Mr. Burton introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.88 ACRES, MORE OR LESS" (Change of Zone No. 1904) filed on behalf of Dry Acres, LLC (Jill Cicierski) (Tax I.D. No. 235-30.00-15.00) (911 Address: None Available).

The Proposed Ordinance will be advertised for Public Hearing.

**M 511 19
Adjourn**

At 11:23 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, 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.}