

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 20, 2020**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 20, 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
Vincent G. Robertson	Assistant County Attorney

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 403 20  
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 6, 2020 were approved by consent.

**Comments**

Public comments were heard and the following spoke: Jeff Seemans.

**DE Goes  
Purple**

Peggy Geisler of the Sussex County Health Coalition, gave a presentation on *Delaware Goes Purple*, a substance abuse awareness program.

**Permitted  
Animals and  
Farm Size  
in County  
Code**

Jamie Whitehouse, Planning and Zoning Director, presented a summary of the provisions in the County Code relating to the number of farm animals allowed in the AR-1 District on properties of less than 5 acres and on farms of more than 5 acres. Council requested this discussion at its October 6th meeting.

**Cluster  
Subdivisions  
in County  
Code**

Jamie Whitehouse, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, presented a summary of the cluster subdivision regulations as outlined in County Code. The presentation focused on the differences between a cluster subdivision within an AR-1 District and a subdivision within the Coastal Area. Council members discussed the drafting of an ordinance to address cluster subdivisions in the Coastal Area

(continued) and there was a consensus of Council to direct staff to prepare a draft ordinance.

**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 2019 Comprehensive Annual Financial Report (CAFR). This is the 18<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. Project Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheet, The Estuary – Phase 2 received Substantial Completion effective October 7<sup>th</sup>.

**3. Delaware State Police Activity Report**

The Delaware State Police year-to-date activity report for September 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 September.

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

**Human  
Service  
Grants** Mrs. Jennings provided the FY2021 Human Service Grants recommendation and an overview of the program. This program provides grants to countywide non-profit agencies for the purpose of enhancing health and human services, which contribute to a safe, healthy and self-sufficient community. This program provides grants that assist organizations with operating or capital expenses.

Mrs. Jennings explained the application process. She discussed the online application and the formula-based approach to awarding Human Service Grants. Mrs. Jennings outlined the method and criteria for determining recommended grant amounts and presented the recommended Human Service Grants for Fiscal Year 2021 (funds totaling \$224,213.00).

- M 404 20**  
**Approve**  
**FY 2021**  
**Human**  
**Service**  
**Grants**
- A Motion was made by Mr. Hudson, seconded by Mr. Rieley, that the Sussex County Council approves the Fiscal Year 2021 Human Service Grants allocation, 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**
- Request to**  
**Withdraw/**  
**CU 2231**
- Jamie Whitehouse, Planning and Zoning Director, presented a request to withdraw Conditional Use No. 2231 filed on behalf of Solid Walls, LLC. A letter of request was received by the Planning and Zoning Department from Mark Davidson of Pennoni at the request of his client, Peter Nau of Solid Walls, LLC.
- M 405 20**  
**Approve**  
**Withdraw**  
**of CU 2231**
- A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council accepts the withdraw of Conditional Use No. 2231 filed on behalf of Solid Walls, LLC.
- Motion Adopted: 4 Yeas, 1 Abstention.**
- Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Wilson, Abstained; Mr. Burton, Yea;**  
**Mr. Vincent, Yea**
- EMS**  
**& Public**  
**Safety**  
**Building**  
**Project/**  
**Stand-**  
**Alone**  
**Purchase**  
**Order for**  
**Specialty**  
**Design**  
**Services**
- Hans Medlarz, County Engineer, reported on the EMS Department – Public Safety Building Project C19-04, advising that the initial design approach was a stand-alone fire suppression system independent of the Emergency Operations Center. However, the State’s fire prevention code requires a single – entry point and the Fire Marshall would not allow an exception. This resulted in a full sprinkler distribution system design for the entire building. Mr. Medlarz also advised that the site design anticipates lowering the injection wells associated with the supplemental cooling system and installing a parking lot over top of them potentially reducing the cooling efficiency. Due to the critical nature of the facility, it is recommended to create a secondary backup in the form of a cooling tower. Mr. Medlarz stated that these required specialty design services can be provided by GMB’s sub-consultant RMF Engineering. In order to avoid unnecessary mark-up expenses, all parties agreed a stand-alone purchase order would be in the County’s best interest. The Engineering Department recommends issuance of RMF Engineering’s purchase order in an amount not to exceed \$31,720.00.
- M 406 20**  
**Approve**  
**Stand-Alone**  
**Purchase**  
**Order**
- A Motion was made by Mr. Rieley, seconded by Mr. Burton, based upon the recommendation of the Sussex County Engineering Department, that a Stand-Alone Purchase Order for RMF Engineering be approved in an amount not to exceed \$31,720.00 for the design of a supplemental cooling system and a fire system header for the entire public safety building.

**M 406 20  
(continued)**

**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**

**Request to  
Post  
Notices/  
Briarwood  
Estates  
Expansion  
SCUSSD**

**John Ashman, Utility Planning Director, presented a request to prepare and post notices for the Briarwood Estates Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). The Engineering Department received a request to make a presentation to the Briarwood Estates Homeowners Association based on their own internal balloting procedures. The Department mailed a polling letter to all property owners in the community. To date, the Department has received 48 responses out of 72 potential parcels for a 66% response; those responses are 37 in favor of central sewer and 11 opposed.**

**M 407 20  
Authorize  
Posting of  
Notices/  
Briarwood  
Estates  
Expansion**

**A Motion was made by Mr. Wilson, seconded by Mr. Burton, that the Sussex County Engineering Department is authorized to prepare and post notices for the Briarwood Estates Expansion of the Sussex County Unified Sanitary Sewer District to include all parcels in the subdivision known as Briarwood Estates located off of Route 24, 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**

**Request to  
Post  
Notices/  
Collins  
Avenue  
Expansion  
SCUSSD**

**John Ashman, Utility Planning Director, presented a request to prepare and post notices for the Collins Avenue Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area), to include parcels primarily along Collins Avenue, including some parcels on Plantation Road and Route 24, John J. Williams Highway. The Engineering Department received several requests for sewer service from homeowners along Collins Avenue. A polling letter was sent to the residents of Collins Avenue and those immediately adjacent. To date, The Engineering Department has received a total of 21 responses out of 32 potential parcels for a 65% response; those responses are 12 in favor of central sewer and 9 opposed.**

**M 408 20  
Authorize  
Posting of  
Notices/  
Collins  
Avenue  
Expansion**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Engineering Department is authorized to prepare and post notices for the Collins Avenue Expansion of the Sussex County Unified Sanitary Sewer District to include parcels along Collins Avenue and parcels along Plantation Road, as presented.**

**Motion Adopted: 5 Yeas.**

**M 408 20  
(continued)**

**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 409 20  
Council-  
manic  
Grant**

**A Motion was made by Mr. Wilson, seconded by Mr. Hudson, to give \$1,500.00 (\$1,000.00 from Mr. Vincent's Councilmanic Grant Account and \$500.00 from Mr. Rieley's Councilmanic Grant Account) to the City of Seaford for the Nanticoke Riverfest.**

**Motion Adopted: 5 Yeas.**

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

**M 410 20  
Council-  
manic  
Grant**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to Seaford Tomorrow, Inc. for the Friday Night Live events.**

**Motion Adopted: 5 Yeas.**

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

**M 411 20  
Council-  
manic  
Grant**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give \$1,500.00 from Mr. Vincent's Councilmanic Grant Account to the Laurel Senior Center for congregate meals.**

**Motion Adopted: 5 Yeas.**

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

**M 412 20  
Council-  
manic  
Grant**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give \$5,000.00 (\$3,500.00 from Mr. Burton's Councilmanic Grant Account and \$1,500.00 from Mr. Hudson's Councilmanic Grant Account) to Meals on Wheels of Rehoboth and Lewes, Inc. for their meal program.**

**Motion Adopted: 5 Yeas.**

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

<b>Introduction of Proposed Ordinance</b>	<b>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 MINI SPA TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.50 ACRES, MORE OR LESS” (Conditional Use No. 2247) filed on behalf of Hillary Brock (Tax I.D. No. 234-5.00-44.09) (911 Address: 19950 Beaver Dam Road, Lewes).</b>
<b>Council Members’ Comments</b>	<p><b><u>Council Members’ Comments</u></b></p> <p><b>Mr. Wilson commented on the Cooling Tower project at the Public Safety Building/Emergency Operations Center.</b></p> <p><b>Mr. Vincent commented on organizations that may be needing additional funding in the future due to their inability to hold fundraisers as a result of COVID-19.</b></p>
<b>M 413 20 Recess</b>	<p><b>At 12:05 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, to recess until 1:30 p.m.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea</b></p>
<b>M 414 20 Reconvene</b>	<p><b>At 1:40 p.m., a Motion was made by Mr. Burton, seconded by Mr. Hudson, to reconvene.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Wilson, Yea; Mr. Burton, Yea; Mr. Vincent, Yea</b></p>
<b>Rules</b>	<p><b>Mr. Robertson read the rules of procedure for zoning hearings.</b></p>
<b>Public Hearing/ Proposed Ordinance/ Future Land Use Map</b>	<p><b>A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 135-16.00-23.00 (PORTION OF)”.</b></p> <p><b>On February 18, 2020, the Council approved the Change of Zone application (Change of Zone No. 1902 filed on behalf of John C. Stomato, c/o Ribera Development, LLC). The Change of Zone approval was contingent upon the Future Land Use Map of Sussex County being successfully amended from a commercial area, which does not permit HI-1 zoning, to an Industrial Area.</b></p>

**Public  
Hearing/  
Proposed  
Ordinance/  
Future  
Land Use  
Map  
(continued)**

After the Proposed Ordinance was introduced by the Council on August 11, 2020, the Proposed Ordinance was subsequently reviewed at the State's PLUS meeting of August 26, 2020. The Planning and Zoning Commission held a public hearing on September 10, 2020. At that meeting, the Commission recommended approval of the Proposed Ordinance.

(See the minutes of the Planning and Zoning Commission dated August 26 and September 10, 2020.)

Jamie Whitehouse, Planning and Zoning Director, presented the Proposed Ordinance.

The Council found that Jim Fuqua, Attorney, was present on behalf of the Applicant. He noted that PLUS (Preliminary Land Use Service) and the Planning and Zoning Commission both support the Proposed Ordinance and that the Council approved Change of Zone No. 1902 contingent on approval of the revised map.

There were no public comments.

The Public Hearing and public record were closed.

**M 415 20  
Adopt  
Ordinance  
No. 2745**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, to Adopt Ordinance No. 2745 entitled "AN ORDINANCE TO AMEND THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN IN RELATION TO TAX PARCEL NO. 135-16.00-23.00 (PORTION OF)".

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing/  
CZ 1913**

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 HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 3.60 ACRES, MORE OR LESS" (Change of Zone No. 1913) filed on behalf of FW & SW Thoroughgood Family Limited Partnership (Tax I.D. No. 233-5.00-70.00) (911 Address: 30512 and 30540 Thorogoods Road, Dagsboro).

The Planning and Zoning Commission held a Public Hearing on this application on September 10, 2020 at which time action was deferred. On September 24, 2020, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated September 10 and 24, 2020.)

**Public  
Hearing/  
CZ 1913  
(continued)**

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

**The Council found that David Hutt, Attorney, was present on behalf of the application. Also in attendance were Frank, Sarah and Bill Thoroughgood who are all a part of the family limited partnership. Mr. Hutt stated that this property has a Conditional Use approval (1995); that rather than continuing to seek conditional use approvals or an amendment to the existing conditional use, they decided to seek a change of zone; that the property to the rear of the Applicant's property is zoned HI-1; that the property is close to railroad tracks; that the property is improved with an outbuilding and garage and is served by on-site water and sewer; that a Traffic Impact Study was not required by DelDOT; that the 2020 Delaware Strategies for State Policies and Spending identifies the property as Investment Level 2; that the application is consistent with the Comprehensive Plan and the Future Land Use Map; that the only property between the asphalt plant and the railroad that is not in the Industrial Area is the subject property and, therefore, the rezoning would be an "in-fill"; that the area is not highly populated; that the site has good road access; and that the rezoning is appropriate for this parcel.**

**There were no public comments.**

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

**M 416 20  
Adopt  
Ordinance  
No. 2746/  
CZ 1913**

**A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to Adopt Ordinance No. 2746 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 3.60 ACRES, MORE OR LESS" (Change of Zone No. 1913) filed on behalf of FW & SW Thoroughgood Family Limited Partnership.**

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing/  
CZ 1919**

**A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO A LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 23.7021 ACRES, MORE OR LESS" (Change of Zone No. 1919) filed on behalf of Newton Farms, LLC (Tax I.D. No. 131-6.00-8.00) (911 Address: None Available).**



**Public  
Hearing/  
CZ 1919  
(continued)**

**The Planning and Zoning Commission held a Public Hearing on this application on September 10, 2020 at which time action was deferred. On September 24, 2020, the Commission recommended approval.**

**(See the minutes of the Planning and Zoning Commission dated September 10 and 24, 2020.)**

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

**The Council found that David Hutt, Attorney, was present on behalf of the Applicant. Also present was Rob Ryder, Principal and one of the owners of Newton Farms, LLC, along with David Heatwole, Engineer. Mr. Hutt stated that the property is unimproved and used for agricultural purposes; that the intended use of the site is for manufacturing and light industrial; that the property is served by on-site sewer and water; that no Traffic Impact Study was required by DelDOT; that DelDOT will require the first use of the property to pay an area wide study fee; that the 2020 Delaware Strategies Map identifies the property as being in an Investment Level 2 Area; that this property is completely surrounded by the designation of industrial on the Future Land Use Map; that this parcel is located approximately 600 feet from Route 13; that the intended use of the property is a new location / warehouse for Miller Metal Fabrication; that O.A. Newton partners with Miller Metal; that the concept plan is similar to the buildings on the adjacent properties; that Miller Metal has outgrown its current building and is in desperate need of a larger building to expand operations; that Miller Metal is a fabricating business; that Miller Metal is a growing family business that employs 97 people; that Miller Metal has another location and they hope to relocate some of its employees to this site; that this site is buffered on all four sides with family-owned property; that Newton Farms depends on Miller Metal; and that this is a land use opportunity that results in jobs.**

**There were no public comments.**

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

**M 417 20  
Adopt  
Ordinance  
No. 2747/  
CZ 1919**

**A Motion was made by Mr. Wilson, seconded by Mr. Hudson, to Adopt Ordinance No. 2747 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO A LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 23.7021 ACRES, MORE OR LESS” (Change of Zone No. 1919) filed on behalf of Newton Farms, LLC**

**Motion Adopted: 5 Yeas.**

**M 417 20  
(continued)**

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

**M 418 20  
Adjourn**

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

**Motion Adopted: 5 Yeas.**

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

**Respectfully submitted,**

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

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