

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 19, 2019**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 19, 2019, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 569 19  
Approve  
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Hudson, 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 November 12, 2019 were approved by consent.

**Public  
Comments**

A public comment period was held and the following spoke: Paul Reiger, Dan Kramer, and Rich Holtkamp (representing SARG).

**Fourth  
Quarter  
Employee  
Recognition  
Awards**

Mrs. Jennings reported that the County instituted a new customer service award program; the new program is called Shining Star Program. The program recognizes and celebrates employees who demonstrate exceptional performance, service and/or accomplishments. Mrs. Jennings announced the three Honorable Mention winners for the Fourth Quarter: Lindsay Behney (Register of Wills Office), Robbin Workman (Mapping and Addressing Department), and Richard Johnson (Mapping and Addressing Department).

**Henlopen  
TID  
Presenta-  
tion**

DelDOT Secretary Jennifer Cohan and Drew Boyce, DelDOT Director of Planning, gave a presentation on the Proposed Henlopen Transportation Improvement District (TID). The Henlopen TID boundary is 24 square miles; 62 intersections, 9 with traffic signals, were studied and 43 roadway

**Henlopen  
TID  
Presentation  
(continued)**

segments totaling approximately 66 miles were studied. The Secretary reported that the build-out was modeled identifying future land use anticipated by 2045 which includes an estimated 12,867 additional housing units and an estimated 1.5 million square feet of commercial development. The Secretary discussed what Level of Service means and she reviewed the six (6) categories (Levels A through F); DeIDOT is proposing that, within the TID, the Level of Service D will be the standard for peak times. The Secretary reviewed some of the improvements being considered and she reported that, in addition to conducting the Level of Service Analysis, they considered potential service standards to define what should be considered adequate transportation facilities. The Secretary reviewed service standards for the identification of needed improvements.

The Secretary reviewed all of the locations recommended for improvements including new connectors, proposed widenings, traffic signals, roundabouts, turn lanes, and other improvements. She noted that for all of these projects, DeIDOT did concept plans and cost estimates; the total estimated cost of the recommended improvements in the TID is \$283.5 million. Projects recommended for the FY2021 CTP total approximately \$95 million.

The Secretary stated that the next step would be to establish the Infrastructure Fee Program and she reviewed two alternatives for proposed fee schedules.

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

The next steps are public involvement and formalization of the TID Agreement by DeIDOT and the County. The Secretary noted that their regulations require that there will be some type of public involvement regarding the TID and the recommended improvements. The Secretary recommended a joint public workshop (DeIDOT and the County) to present all of the TID information to the public. Thereafter, DeIDOT will have to go through the public hearing process.

**Public  
Hearing/  
Milo's  
Haven  
Expansion**

A Public Hearing was held on the Milo's Haven Proposed Expansion of the Sussex County Unified Sanitary Sewer District (Millville Area). John Ashman, Director of Utility Planning, reported that the expansion was requested by Davis, Bowen & Friedel on behalf of their clients, Norman Stephen Price Revocable Trust for Parcels 134-19.00-13.03 and 134-18.00-38.00. Mr. Ashman also reported that the Engineering Department has received a request to add another parcel (No. 134-16.00-1212.00) to the boundary; the project will be obtaining an easement from this parcel for infrastructure installation and providing a connection point for them. The Engineering Department recommends including Parcel 1211 also.

(continued) **There were no public comments.**

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

**M 570 19**  
**Adopt**  
**R 021 19**

**A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to Adopt Resolution No. R 021 19 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) MILLVILLE AREA, TO INCLUDE THE MILO’S HAVEN SUBDIVISION LOCATED IN THE 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**

**Public Hearing/  
Chase Oaks  
Expansion**

**A Public Hearing was held on the Chase Oaks Subdivision Proposed Expansion of the Sussex County Unified Sanitary Sewer District (Angola Neck Area). John Ashman, Director of Utility Planning, reported that the expansion was requested by Solutions IPEM on behalf of their client, Charter Oak Investment, LLC, for Parcels 234-6.00-96.00, 97.00 and 98.00.**

**There were no public comments.**

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

**M 571 19**  
**Adopt**  
**R 022 19**

**A Motion was made by Mr. Burton, seconded by Mr. Rieley, to Adopt Resolution No. R 022 19 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD) ANGOLA NECK AREA, TO INCLUDE THE CHASE OAKS SUBDIVISION LOCATED IN THE INDIAN RIVER 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**

**Chapel Branch  
Assessment  
Method/  
Proposed**

**John Ashman, Director of Utility Planning, reported that in November 2016, the Council established the Chapel Branch Area of the Sussex County Unified Sanitary Sewer District with the repayment of capital expenses based on a front foot assessment. The Engineering Department received a letter from the Chapel Green Homeowners Association in March 2019**

**Chapel  
Branch  
Assessment  
Method/  
Proposed  
(continued)**

requesting annual billing using the EDU formula, not the quarterly front-footage formula as previously approved by referendum. In addition, the Department received a letter from Oak Crest Farms Property Owners Association stating the Board of Directors are in support of an EDU based assessment. On September 7, 2019, the Engineering Department held a public hearing on revising the assessment method; the revised assessment method presented would revise the assessment to a uniform \$680.00 per EDU. The Engineering Department held a second referendum on October 26, 2019; the results of the referendum were 220 for the uniform \$680.00 per EDU assessment rate and 28 against the \$680.00 per EDU assessment rate. These results include the 51 absentee ballots received.

**M 572 19  
Adopt  
R 023 19**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Resolution No. R 023 19 entitled “A RESOLUTION TO ADJUST THE ASSESSMENT METHOD FOR THE RE-PAYMENT OF CAPITAL EXPENSES ASSOCIATED WITH THE CHAPEL BRANCH AREA SEWER INFRASTRUCTURE INSTALLATION”.

**Motion Adopted: 5 Yeas.**

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

**Proposed  
2020  
Schedule**

Mr. Lawson presented the proposed Sussex County 2020 Schedule for the Council’s consideration.

**M 573 19  
Approve  
2020  
Schedule**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Council approves the 2020 Holiday Schedule and the 2020 County Council Meeting Schedule, as follows:

**HOLIDAY SCHEDULE**

<b>New Year’s Day</b>	<b>January 1 (Wednesday)</b>
<b>Martin Luther King, Jr. Day</b>	<b>January 20 (Monday)</b>
<b>Good Friday</b>	<b>April 10 (Friday)</b>
<b>Memorial Day</b>	<b>May 25 (Monday)</b>
<b>Independence Day</b>	<b>July 3 (Friday)</b>
<b>Labor Day</b>	<b>September 7 (Monday)</b>
<b>Election Day</b>	<b>November 3 (Tuesday)</b>
<b>Return Day</b>	<b>November 5 (Thursday)</b>
<b>Veterans Day</b>	<b>November 11 (Wednesday)</b>
<b>Thanksgiving</b>	<b>November 26 (Thursday)</b>
	<b>November 27 (Friday)</b>
<b>Christmas</b>	<b>December 24 (Thursday)</b>
	<b>December 25 (Friday)</b>

**(The County grants two floating holidays to eligible employees per calendar year in accordance with the Floating Holiday Policy.)**

**M 573 19**  
**Approve**  
**2020**  
**Schedule**  
**(continued)**

**COUNCIL NO MEETING DATES**

**JANUARY 21**  
**FEBRUARY 11**  
**MARCH 3**  
**MARCH 24**  
**APRIL 14**  
**APRIL 21**  
**MAY 26**  
**JULY 7**  
**JULY 21**  
**AUGUST 4**  
**AUGUST 18**  
**SEPTEMBER 8**  
**SEPTEMBER 15**  
**OCTOBER 13**  
**NOVEMBER 3**  
**NOVEMBER 24**  
**DECEMBER 22**  
**DECEMBER 29**

**Motion Adopted: 5 Yeas.**

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

**Adminis-**  
**trator's**  
**Report**

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

**1. Project Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheet, The Estuary – Phase 2-5 (Construction Record) received Substantial Completion effective November 4<sup>th</sup>.**

**2. Council Meeting/Holiday Schedule**

**Council will not meet on Tuesday, November 26<sup>th</sup>, during the week of Thanksgiving. County offices will be closed on Thursday, November 28<sup>th</sup>, and Friday, November 29<sup>th</sup>, for the Thanksgiving holiday and will reopen on Monday, December 2<sup>nd</sup>, at 8:30 a.m.**

**Please also note that Council will not meet on Tuesday, December 3<sup>rd</sup>. The next regularly scheduled Council meeting will be held on December 10<sup>th</sup> at 10:00 a.m.**

**3. County Holiday and Employee Appreciation Luncheon**

**Administrator's Report (continued)**

The County's Holiday and Employee Appreciation Luncheon will take place on Friday, December 6, 2019, at the Crossroads Conference Center. County offices will close at 12:00 p.m. on December 6<sup>th</sup> and will reopen on Monday, December 9<sup>th</sup>, at 8:30 a.m. The public is asked to plan accordingly during this time, and we appreciate the public's understanding.

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

**Herring Creek SSD/ Contract Amendment**

Hans Medlarz, County Engineer, presented Amendment No. 2 to the EJCDC Base Agreement with Whitman, Requardt and Associates for the Herring Creek Sanitary Sewer District Construction Administration and Project Inspection Contract (Project S20-06).

**M 574 19 Approve EJCDC Base Engineering Contract Amendment/ Herring Creek SSD/ WR&A**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 2 to the EJCDC Base Engineering Contract for Herring Creek Sanitary Sewer District with Whitman Requardt & Associates be approved in the amount not to exceed \$307,304.00 for Construction Administration and Inspection of the Herring Creek Sanitary Sewer District Pump Stations, Force Main, and Gravity Sewer Systems.

**Motion Adopted: 5 Yeas.**

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

**Professional Services Agreement with GMB/ Wolfe Runne Sewer Expansion**

Hans Medlarz, County Engineer, presented a Standalone USDA Engineering Agreement with George Miles & Buhr (GMB) for the Wolfe Runne Sewer Expansion. The Engineering Department has reviewed the scope of services and estimated fee provided by GMB and recommends that Council authorize approval of the Professional Services Agreement at a not-to-exceed value of \$204,003.00, for design and bidding of the Wolfe Runne Sewer Expansion, Sussex County Project S20-13, contingent upon USDA approval.

**M 575 19 Approve Engineering Services Agreement/ Wolfe Runne Sewer Expansion**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Engineering Services Agreement with George Miles & Buhr be approved in the amount not to exceed \$204,003.00 for design and bidding phases of Sussex County Project S20-13, Wolfe Runne Sewer Expansion, contingent upon approval by the USDA.

**Motion Adopted: 5 Yeas.**

**M 575 19**  
**(continued)**  
**Grant**  
**Request**

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

Mrs. Jennings presented a grant request for the Council's consideration.

**M 576 19**  
**Countywide**  
**Youth**  
**Grant**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$1,000.00 from Countywide Youth Grants to Ducks Unlimited, Inc. for the Delaware Ducks Unlimited Greenwing Event.

**Motion Adopted:** 5 Yeas.

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

**M 577 19**  
**Go Into**  
**Executive**  
**Session**

At 11:24 a.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 potential/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 11:32 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to potential/pending litigation and land acquisition. The Executive Session concluded at 11:57 a.m.

**M 578 19**  
**Reconvene**  
**Regular**  
**Session**

At 11:59 a.m., a Motion was made by Mr. Burton, seconded by Mr. Hudson, 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 579 19**  
**Recess**

At 11:59 a.m., a Motion was made by Mr. Burton, seconded by Mr. Rieley, to recess until 1:30 p.m.

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





(continued) customer would visit the site; that all work will occur indoors and all storage would be indoors; that the hours proposed are 7:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to 2:00 p.m. on Saturdays. Mr. Hutt stated that the Conditional Use is consistent with the Comprehensive Plan and is a low impact Conditional Use.

There were no public comments.

The Public Hearing and public record were closed.

**M 581 19  
Defer  
Action/  
CU 2194**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to defer action on Conditional Use No. 2194 filed on behalf of Imagination-Renovation, LLC.

**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 1893**

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-2 MEDIUM COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.474 ACRE, MORE OR LESS" (Change of Zone No. 1893) filed on behalf of Lisa Horsey (Tax I.D. No. 132-12.00-113.00) (911 Address: 28537 Sussex Highway, Laurel).

The Planning and Zoning Commission held a Public Hearing on this application on October 17, 2019 at which time action was deferred.

(See the minutes of the Planning and Zoning Commission dated October 17, 2019.)

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

The Council found that Kevin Smith of the Kercher Group was present with Sam Connors of LBG Homes, owner of the property. Mr. Smith stated that the property is zoned AR-1 but has been operated as a commercial-type business for the past few decades; that the property is located on Route 13 in Laurel; that the property was formerly known as Bayside Seafood; that many commercial uses are located in the area; that the client does not wish to expand the building nor improve the property at this time; and that they only want to bring the use of the building and the property into the same zoning (commercial).

There were no public comments.

**(continued) The Public Hearing and public record were closed.**

**M 582 19** A Motion was made by Mr. Wilson, seconded by Mr. Rieley, to defer action  
**Defer** on Change of Zone No. 1893 filed on behalf of Lisa Horsey.

**Action/  
CZ 1893** Motion Adopted: 5 Yeas.

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

**Public** A Public Hearing was held on the Proposed Ordinance entitled “AN  
**Hearing/  
CZ 1894** 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 2.368 ACRES, MORE  
OR LESS” (Change of Zone No. 1894) filed on behalf of Howard Pepper,  
Jr. (Tax I.D. No. 533-4.00-61.00) (911 Address: 35029 DuPont Boulevard,  
Frankford).

The Planning and Zoning Commission held a Public Hearing on this application on October 17, 2019 at which time action was deferred.

(See the minutes of the Planning and Zoning Commission dated October 17, 2019.)

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

The Council found that Howard Pepper, Jr. was present on behalf of the Pepper Family Trust. He stated that in 1973, this site was used for a mobile homes sales park; that in the past year, the site has been used as a commercial property and it was not known until only recently that the property was zoned AR-1; that commercial uses surround the property with the exception of property that is in Agriculture Preservation; and that the Applicant’s son proposes to operate a hardscape business on the site.

There were no public comments.

The Public Hearing and public record were closed.

**M 583 19** A Motion was made by Mr. Rieley, seconded by Mr. Burton, to defer action  
**Defer** on Change of Zone No. 1894 filed on behalf of Howard Pepper, Jr.

**Action/  
CZ 1894** Motion Adopted: 5 Yeas.

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

**M 584 19  
Adjourn**

**At 2:00 p.m., a Motion was made by Mr. Wilson, 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.}*



