

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 8, 2020**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 8, 2020, at 10:00 a.m., in Council Chambers, 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 492 20  
Amend  
and  
Approve  
Agenda**

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

**Motion Adopted: 5 Yeas.**

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

**Minutes**

The minutes of December 1, 2020 were approved by consent.

**Corre-  
spondence**

Mr. Moore read correspondence from the following: YMCA of Delaware and Delaware Lions Foundation.

**Public  
Comments**

There were no public comments.

**Western  
Sussex  
Business  
Campus**

Mr. Lawson presented for Council’s consideration the City of Seaford’s request for funding of the Western Sussex Business Campus. At the November 17, 2020 Council meeting, Seaford Mayor David Genshaw, Town Manager Charles Anderson and Economic Development Director Trish Newcomer presented the proposal. The City is asking the County to consider partnering with them to develop the Western Sussex Business Campus on property the City currently owns next to its existing Business Park. The City is in final negotiations with a regional business park developer to sell the property for the purpose of constructing a new business campus. For this proposal, the County would assist in the campus infrastructure construction by pledging to reimburse the City for the

Western  
Sussex  
Business  
Campus  
(continued)

expenses associated with Phase 1A of the contract, not to exceed \$1,889,291. The City would administer the construction contract for the business park expansion and the County would reimburse the eligible invoice expenditures.

M 493 20  
Adopt  
R 018 20

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to Adopt Resolution No. R 018 20 entitled “RESOLUTION GRANTING THE CITY OF SEAFORD FUNDING FOR THE DEVELOPMENT OF THE WESTERN SUSSEX BUSINESS CAMPUS”.

**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

Adminis-  
trator’s  
Report

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

**1. Projects Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheets, Americana Bayside – Weidman Parcel - Phase 2 (Construction Record), Bishop’s Landing (formerly Dover Landing) – Phase 2D, Frankford Business Park, and Governors – Phase 5 received Substantial Completion effective December 2<sup>nd</sup>.

[Attachments to the Administrator’s Report are not attached to the minutes.]

Public  
Hearing/  
Proposed  
Ordinance  
Relating  
to Pension  
Benefits

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY RELATING TO PENSION BENEFITS FOR SUSSEX COUNTY EMPLOYEES REGARDING EMPLOYEE ELIGIBILITY AND CONTRIBUTIONS AND TO BRING THE CODE INTO COMPLIANCE WITH THE UNITED STATES INTERNAL REVENUE CODE”.

Mrs. Jennings advised that the Proposed Ordinance achieves two goals: (1) ensures the County’s pension plan continues to be considered as a qualified pension plan under the Internal Revenue Service Code, and (2) requires employees hired after December 30, 2020 to pay a 5 percent contribution to their pension. Mrs. Jennings noted that none of the proposed revisions change the benefits that current employees are receiving today.

There were no public comments.

The Public Hearing and public record were closed.

**M 494 20  
Adopt  
Ordinance  
No. 2760**

**A Motion was made by Mr. Rieley, seconded by Mr. Wilson, to Adopt Ordinance No. 2760 entitled “AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY RELATING TO PENSION BENEFITS FOR SUSSEX COUNTY EMPLOYEES REGARDING EMPLOYEE ELIGIBILITY AND CONTRIBUTIONS AND TO BRING THE CODE INTO COMPLIANCE WITH THE UNITED STATES INTERNAL REVENUE CODE”.**

**Motion Adopted: 5 Yeas.**

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

**Western  
Sussex  
Trans-  
mission  
Facilities**

**Hans Medlarz, County Engineer, presented Change Order No. 1 to Project S20-35, Western Sussex Transmission Facilities, Contract 6: Office/Garage Building. The Change Order, in the total amount of \$9,393.99, is for security cameras with a junction box, and a build-out for vehicle clearance.**

**M 495 20  
Approve  
Change  
Order/  
Western  
Sussex  
Trans-  
mission  
Facilities  
Project**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract S20-35, Western Sussex Transmission Facilities, Contract 6, Office/Garage Building, be approved, increasing the Contract by \$9,393.99 for a new contract total of \$419,918.99.**

**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/  
Assessment  
Rolls/  
Herring  
Creek  
Area/  
SCUSSD**

**A Public Hearing was held on the Assessment Rolls for the Herring Creek Area of the Unified Sanitary Sewer District.**

**Mr. Medlarz reported that the Assessment Rolls reflect the County’s records for equivalent dwelling units (EDUs) and billable front footage for the area. These records have been made available in the County’s Utility Division for public inspection and review.**

**There were no public comments.**

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

**M 496 20  
Adopt  
Assessment  
Rolls/  
Herring  
Creek Area**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Council adopts the Assessment Rolls for the Sussex County Unified Sanitary Sewer District for the Herring Creek Area for the period January 1, 2021 through June 30, 2021.**

**Motion Adopted: 5 Yeas.**

**M 496 20  
(continued)**

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

**Public  
Hearing/  
Proposed  
Ordinance/  
Assessment  
Rates/  
Herring  
Creek  
Area/  
SCUSSD**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL ASSESSMENT RATES FOR THE HERRING CREEK AREA OF THE UNIFIED SEWER DISTRICT”.**

**Hans Medlarz, County Engineer, reported that the annual assessment rates for collection and transmission and/or treatment for the Herring Creek Area of the Unified Sewer District are as follows:**

- A. For collection, an assessment rate per billable front foot: \$4.12; and**
- B. For transmission and/or treatment, an assessment rate per billable front foot: \$4.12**

**Mr. Medlarz noted that the rates are for the remainder of the Budget Year 2021.**

**There were no public comments.**

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

**M 497 20  
Adopt  
Ordinance  
No. 2761**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2761 entitled “AN ORDINANCE ESTABLISHING THE ANNUAL ASSESSMENT RATES FOR THE HERRING CREEK AREA OF THE UNIFIED SEWER DISTRICT”.**

**Motion Adopted: 5 Yeas.**

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

**Quarterly  
Pension  
Update**

**Mrs. Jennings, along with Michael Shone of Marquette Associates, provided a Quarterly Pension Update, including a performance summary for the Pension and OPEB funds, an actuarial update, and a report on the November 19, 2020 Pension Committee meeting. They reported on the Pension Committee’s consideration of an option for the addition of private infrastructure to the County’s portfolio and recommendation to revise the Investment Policy Statements for the Pension and OPEB funds to decrease U.S. Equities by 1 percent, non-U.S. Equities by 1 percent, U.S. Fixed Income by 3 percent, and add a new asset classification of private infrastructure at 5 percent.**

- M 498 20**  
**Revise**  
**Investment**  
**Policy**  
**Statements/**  
**Include New**  
**Asset Classi-**  
**fication of**  
**Private**  
**Infra-**  
**structure**
- A Motion was made by Mr. Rieley, seconded by Mr. Burton, that the Sussex County Council, based on the recommendation of the Pension Committee, decrease equities target from 65% to 63%, decrease fixed income target from 29% to 26%, and add an allocation to private infrastructure with a target of 5% for both the Pension and OPEB Funds.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Wilson, Yea; Mr. Burton, Yea;**  
**Mr. Vincent, Yea**
- Sussex**  
**County**  
**Rental**  
**Program/**  
**Coastal**  
**Tide**  
**Apartments**
- Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer, provided an update on Sussex County's Rental Program (SCRP). She reported that the first project under this Program is finally under construction and will be completed in early 2021; the project name is Coastal Tide Apartments, formerly known as Arbors of Cottagedale, located south of Five Points in Lewes. This project will consist of a total of 168 apartment units, 26 of those are reserved under the County's Affordable Rental Program. Also in attendance to discuss the project was Linda Smith of Your Place Property Management. They discussed the project details, tenant eligibility, the layout of the apartments, and the plan to hold a lottery for tenant applications to Coastal Tide SCRPs units. No action was taken on this matter.**
- Mass**  
**Annexation**  
**of Individual**  
**Parcels**
- John Ashman, Director of Utility Planning, reported that, under the direction of the County Engineer and under his authority according to County Code, the Sussex County Engineering Department has been accepting annexation fees and connecting individual parcels on an as-needed basis. According to Code, the Engineer may grant connections to scattered parcels at the equivalent dwelling unit (EDU) density of the abutting property but cannot exceed 12 EDUs per acre. The connection of the scattered parcels must be determined to not overload the capacity in the existing sewer system taking into account the full development capacity of other parcels within the area. Mr. Ashman stated that this is an all encompassing annexation of parcels previously requesting annexation (meeting requirements and submitting the appropriate annexation fee), as follows: 234-12.00-213.00, 134-16.00-36.04, 234-23.00-116.10, 433-6.06-3.02, 134-16.00-35.00, 134-7.00-165.00, 134-16.00-36.02, 433-6.06-3.03, and 134-7.00-165.01. Approximately 50% are septic remediation projects and the majority were all able to be served by previously installed infrastructure or fairly simple lateral adjustments.**
- M 499 20**  
**Approve**  
**Mass**  
**Annexation**
- A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves mass annexation, as presented on December 8, 2020, and gives permission to adjust the sewer tier maps accordingly.**

**M 499 20  
(continued)**

**Motion Adopted: 5 Yeas.**

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

**Discussion  
and  
Possible  
Introduction  
of a  
Proposed  
Ordinance  
Relating to  
Cluster  
Subdivisions  
in the  
Coastal  
Area**

**Jamie Whitehouse, Planning and Zoning Director, and Vince Robertson, Assistant County Attorney, were in attendance to discuss a Proposed Ordinance regarding the Coastal Area.**

**Mr. Lawson noted that the Proposed Ordinance had to be updated in the December 8, 2020 packet online (on the County's website) to reflect the correct Coastal Area Ordinance.**

**Mr. Robertson provided a basic overview of the Proposed Ordinance stating that in the County Code, there are two separate approval processes for cluster subdivisions. This ordinance will address cluster subdivisions in the Coastal Area.**

**Mr. Robertson stated that this is a continuation of the previous ordinance that was introduced on October 27, 2020, noting that there was an apparent glitch in the publication/advertisement for the public hearings on the Proposed Ordinance, and therefore the County is restarting the process.**

**It was noted that the Planning and Zoning Commission did hold a public hearing on the Proposed Ordinance introduced on October 27th; however, the Commission has not yet made a recommendation to Council. At that public hearing, there was opposition, mostly regarding the yield plan portion of the prior ordinance. Although the Commission did not make a recommendation, they uniformly said that they were not in favor of the yield plan aspect of the ordinance.**

**Mr. Robertson stated that, as a result of restarting the process and having to reintroduce the ordinance, it is proposed to reintroduce it without the yield plan. Mr. Robertson noted that the Proposed Ordinance included in the packet for this meeting is the version excluding the yield plan.**

**Introduction  
of Proposed  
Ordinance**

**Mr. Hudson introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.3 OF THE CODE OF SUSSEX COUNTY REGARDING THE COASTAL AREA".**

**The Proposed Ordinance will be advertised for Public Hearing.**

**Grant  
Requests**

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

**M 500 20  
Grant**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to give \$5,000.00 from Mr. Burton's Councilmanic Grant Account to the Milton Fire Department for renovations/addition.**

**M 500 20  
(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 501 20  
Grant**

**A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$3,000.00 from Mr. Wilson's Councilmanic Grant Account to Georgetown Little League for backstop replacement.**

**Motion Adopted: 5 Yeas.**

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

**M 502 20  
Go Into  
Executive  
Session**

**At 12:01 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to recess the Regular Session and go into Executive Session to discuss matters relating to land acquisition and pending litigation.**

**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 12:10 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 and pending litigation. The Executive Session concluded at 1:54 p.m.**

**M 503 20  
Reconvene  
Regular  
Session**

**At 1:58 p.m., a Motion was made by Mr. Burton, seconded by Mr. Rieley, to come out of Executive Session and 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**

**M 504 20  
Authorize  
Land  
Acquisition**

**A Motion was made by Mr. Rieley, seconded by Mr. Burton, to authorize the County Administrator to negotiate, enter into a contract, and to proceed to closing on a parcel of land identified as Land 2020-D.**

**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**

**M 505 20  
Adjourn**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, to adjourn at 1:59 p.m.**

**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**

**Respectfully submitted,**

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

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