

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 15, 2020**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 15, 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 (attending remotely)</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 506 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 December 8, 2020 were approved by consent.

**Corre-  
spondence**

Mr. Moore read correspondence received from Love, Inc. and the Food Bank of Delaware thanking the Council for Human Service Grant funding.

**Public  
Comments**

Public comments were heard and the following spoke: George Cole, Rob Arlett, Mike Dorsey, and Valerie Wood, all expressing thanks and congratulations to outgoing Councilmembers Samuel R. Wilson, Jr. and Irwin G. Burton III. Mr. Arlett also congratulated Nancy Cordrey, Administrative Secretary, who is retiring with 45 years of service to the County. Also calling in was Councilman John Rieley who was attending the meeting remotely. Mr. Rieley also thanked and congratulated the outgoing Councilmembers.

**Recognition  
of Outgoing  
Council-  
members  
Wilson and  
Burton**

The Council recognized outgoing Councilman Wilson and Councilman Burton for their service to the residents of Sussex County.

**Sussex  
County  
Land Trust**

**Casey Kenton, Chairman of Sussex County Land Trust, and Mark Churra, Executive Director of the Sussex County Land Trust, and Ron Vickers, Member of Sussex County Land Trust, provided an update on the Land Trust's membership, properties protected, financial support and current projects. Sussex County Land Trust is a nonprofit conservation organization, dedicated to protecting natural, cultural, agricultural and recreational resources through land preservation, stewardship and education.**

**Recognition  
of Retiree  
Benjamin  
Gordy**

**The Council recognized Deputy Sheriff Martin Benjamin Gordy who is retiring on December 31, 2020 after 12 years and 10 months of service to Sussex County.**

**MOU with  
DelDOT/  
FAST  
Track  
Program**

**Mr. Lawson discussed a Memorandum of Understanding (MOU) establishing the FAST (Funding Accelerating Safety and Transportation) Track Program to form a partnership with the Delaware Department of Transportation (DelDOT) to expedite the construction of road improvements in Sussex County. This initiative was discussed during the October 6th Council meeting with Council's direction to proceed with the drafting of a formal agreement. The proposed MOU memorializes the Agreement between Sussex County and DelDOT. Mr. Lawson noted that the MOU has been approved to form by DelDOT and Sussex County's attorneys.**

**The FAST Track Program will allow Sussex County to select a transportation project within the pending CTP (Capital Transportation Program) list based on criteria such as the project's size, location, scope, cost, safety improvements, a Master Plan in the area, and estimated schedule. During the selection process, DelDOT will provide Sussex County with a cost summary estimating the total cost of the project to aid the County's decision. Once the selection of the project is agreed upon by both entities, DelDOT is required to commence work within 60 days. DelDOT will manage and oversee the entire project – from preliminary engineering, right of way acquisition, to construction. DelDOT will also process the Request for Proposals (RFPs) and contract award. In return for the expedited performance, Sussex County will loan DelDOT funding to pay for the project cost. DelDOT will repay Sussex County all the funds in accordance with the CTP schedule shown at the time of the project selection. The first FAST Track Project has been identified as the Cave Neck – Hudson – Sweetbriar Roads intersection.**

**M 507 20  
Approve  
MOU with  
DelDOT/  
Establish  
FAST  
Track  
Fund**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the Memorandum of Understanding with the Delaware Department of Transportation establishing the Funding Accelerating Safety and Transportation, the FAST Track Fund, for Sussex County.**

**Motion Adopted: 4 Yeas, 1 Nay.**

**M 507 20  
(continued)**

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

**M 508 20  
Approve  
Selection  
of DelDOT  
Project to  
be funded  
by the  
FAST  
Track  
Fund**

**A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council selects the DelDOT project in the Fiscal Year 2021 - 2026 Capital Transportation Program known as the Cave Neck Road, Hudson Road and Sweetbriar Road Intersection Improvement to be funded by the FAST Track Fund.**

**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. Jones Farm Purchase and Agreement**

**On November 30, 2020, Sussex County settled with the J.G. Townsend, Jr. & Co. for the purchase of a certain piece of property identified as Tax ID 335-12.00-2.00 for a purchase price of \$2,000,000 which is a shared purchase between the City of Lewes and the Lewes Board of Public Works for a total purchase price of \$5,500,000.**

**Since the property acquisition was previously discussed by Council in Executive Session, the Attorney General's office has advised the County that it should disclose the identity of the property when the need for confidentiality has ended.**

**In addition to the settlement between the three purchasers and the seller, the County, the City of Lewes, and the Lewes Board of Public Works also settled on the Tenants in Common Agreement outlining the responsibilities of each owner related to the future use of the property.**

**2. Project Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheet, Marsh Island – Phase 1A (Revised Construction Record) received Substantial Completion effective, December 7<sup>th</sup>.**

**3. Caroling on The Circle/Pack the Pod**

**The County is continuing to collect items until the end of the year and will continue to distribute these goods to our local food pantries. We want to thank everyone for their donations over the last month and for helping to make Caroling on The Circle/Pack the Pod a success.**

**Administrator's  
Report  
(continued)**

**4. Christmas and New Year's Holidays**

Please note, County offices will be closed on December 23<sup>rd</sup>, 24<sup>th</sup>, and 25<sup>th</sup> to celebrate the Christmas holiday, and January 1<sup>st</sup> for the New Year's holiday. The next regularly scheduled Council meeting will be held on Tuesday, January 5, 2021, at 10:00 a.m.

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

**Coastal  
Tide  
Agreement  
Execution**

Brandy Nauman, Housing Coordinator & Fair Housing Compliance Officer, and Vince Robertson, Assistant County Attorney, presented for Council's consideration the Coastal Tide SCRCP Agreement. On December 8, 2020, Mrs. Nauman provided an update on Sussex County's Rental Program (SCRCP). 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.

Mr. Robertson noted that Chapter 72 of the Code of Sussex County requires the County and the Developer to execute an Agreement which will be recorded in the Office of the Recorder of Deeds.

**M 509 20  
Approve  
Execution  
of Coastal  
Tide  
Agreement**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that in accordance with Chapter 72 of the Code of Sussex County, and based upon the recommendation of the Department of Community Development and Housing, that Coastal Tide, F/K/A Arbors of Cottagedale, Agreement and Restrictive Covenants, is hereby approved to be executed by the President of Sussex County Council and further; the Director of the Department of Community Development and Housing is authorized to execute any and all additional documents necessary to carry out the terms of the Coastal Tide, F/K/A Arbors of Cottagedale, Agreement and Restrictive Covenants.

**Motion Adopted: 5 Yeas.**

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

**Lottery/  
Rental  
Program  
Applications**

Mrs. Nauman stated that, with the signing of the Agreement, the lottery will be opened for the rental program applications. The link can be found on the County's website under the Sussex County Rental Program.

**Ellendale  
Water  
District/  
Contract  
Amendment**

Hans Medlarz, County Engineer, presented Amendment No. 1 to the Owner-Engineer Agreement for Project W20-17, Ellendale Water District. Mr. Medlarz noted that, in recent months, as the design and permitting efforts near completion, it was determined, in coordination with Artesian, that a hydropneumatics water storage tank with building should be included into the project to optimize the water system.

**M 510 20  
Approve  
Contract  
Amendment  
for  
Ellendale  
Water  
District**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Amendment No. 1 to the Base Engineering Contract for the Ellendale Water District with Davis, Bowen & Friedel be approved in the amount not to exceed \$35,000.00, for additional professional services.**

**Motion Adopted: 5 Yeas.**

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

**South  
Coastal  
RWF  
and  
Rehoboth  
Beach WTP/  
Change  
Orders**

**Hans Medlarz, County Engineer, presented a revised Change Order No. 8 for Project C19-17, South Coastal RWF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2, Electrical Construction and Change Order Nos. 6 and 7 to Project C19-11, South Coastal RWF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2, General Construction. The revised Change Order No. 8 in the credit amount of \$9,040.00 is due to a design change and Change Order Nos. 6 and 7, for \$10,500.00 and \$31,974.51, respectively, are due to differing site conditions.**

**M 511 20  
Approve  
Change  
Order/  
Electrical  
Con-  
struction**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that revised Change Order No. 8, for Contract C19-17, South Coastal RWF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2, Electrical Construction, be approved, decreasing the contract by \$9,040.00, for a new contract total of \$21,785.321.00.**

**Motion Adopted: 5 Yeas.**

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

**M 512 20  
Approve  
Change  
Orders/  
General  
Con-  
struction**

**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 C19-11, South Coastal RWF Treatment Process Upgrade No. 3 & Rehoboth Beach WTP Capital Improvement Program, Phase 2, General Construction, be approved, increasing the Contract by \$10,500.00 and \$31,974.51, respectively, for a new contract total of \$40,647,034.14.**

**Motion Adopted: 5 Yeas.**

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

**Herring Creek SSD Project**                      **Hans Medlarz, County Engineer, presented Change Order No. 1 (Recommendation to Issue) and a Modification of Easement for the Herring Creek Sanitary Sewer District: North Gravity Sewer and Force Main, Project S20-07.**

**M 513 20 Approve Easement Modification/ Herring Creek SSD Project**                      **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 Revised Easement Purchase of Tax Parcel 234-17.12-15.00 as part of the Herring Creek Sewer System Expansion in the amount of \$1,500.00 in lieu of appraisal costs.**

**Motion Adopted:        5 Yeas.**

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

**M 514 20 Approve Change Order/ Herring Creek SSD 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 S20-07, Herring Creek Sanitary Sewer District – North Gravity Sewer & Force Main, be approved, increasing the Contract amount by \$259,900.00 for a new Contract total of \$5,350,900.00, 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**

**New Road Estates SCI Program/ Election Results**                      **Patrick Brown, Project Engineer, reported on the election results for the New Road Estates Chapter 96 Sussex Community Improvements Project T21-08. New Road Estates is a small subdivision of 9 residential parcels. The community requested assistance from the County to repair and resurface their existing roads. An election was held on November 18, 2020 with six (6) votes cast; of the six (6) votes, six (6) Yes votes were cast and zero (0) No votes were cast. Vote total indicate a 67% owner participation in the Election. Based on the affirmative results of the Election, the Engineering Department recommends approval of a Resolution authorizing the County Engineer to determine a uniform billing rate based on actual costs after Substantial Completion of the project.**

**M 515 20 Adopt R 019 20/ New Road Estates**                      **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Resolution No. R 019 20 entitled “A RESOLUTION AUTHORIZING THE SUSSEX COUNTY ENGINEER TO PERFORM IMPROVEMENTS, AND THE SUSSEX COUNTY ENGINEER AND FINANCE DIRECTOR TO DETERMINE A UNIFORM ASSESSMENT RATE FOR BILLING, UPON SUBSTANTIAL COMPLETION OF THE IMPROVEMENTS, FOR THE NEW ROAD ESTATES CHAPTER 96 SUSSEX COMMUNITY**

**M 515 20  
(continued) IMPROVEMENT PROJECT”.**

**Motion Adopted: 5 Yeas.**

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

**Briarwood  
Estates  
Expansion/  
Public  
Hearing  
Results**

**John Ashman, Director of Utility Planning, presented the Public Hearing results for the Briarwood Estates Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). The Public Hearing was held on December 11, 2020 at which time the proposed boundary, estimated rates and the County rate structure was discussed. In total, 38 parcels are in favor and 11 opposed (out of 72 potential parcels). Mr. Ashman advised that the Engineering Department recommends approval of the expansion.**

**M 516 20  
Adopt  
R 020 20/  
Briarwood  
Estates  
Expansion**

**A Motion was made to Adopt Resolution No. R 020 20 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE THE BRIARWOOD ESTATES SUBDIVISION ON THE NORTH SIDE OF JOHN J. WILLIAMS HIGHWAY. THE AREA IS LOCATED IN THE LEWES AND REHOBOTH 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**

**Collins  
Avenue  
Expansion/  
Public  
Hearing  
Results**

**John Ashman, Director of Utility Planning, presented the Public Hearing results for the Collins Avenue Expansion of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area). The Public Hearing was held on December 3, 2020 at which time the proposed boundary, estimated rates and the County rate structure was discussed. Mr. Ashman stated that the information was presented to one of the property owners in the area that has several parcels; that information made them reconsider their request for service and they sent a request to change their decision. This resulted in election results being as follows: 9 parcels in favor and 14 opposed. Mr. Ashman stated that the Engineering Department is recommending that the project be abandoned. No action was necessary on this matter.**

**Grant  
Requests**

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

**M 517 20  
Council-  
manic  
Grant**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$5,001.75 (\$4,250.00 from Mr. Burton's Councilmanic Grant Account, \$266.75 from Mr. Wilson's Councilmanic Grant Account, and \$485.00 from Mr. Vincent's Councilmanic Grant Account) to First State Community Action Agency for the Culinary Arts Program.**

**Motion Adopted: 5 Yeas.**

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

**M 518 20  
Council-  
manic  
Grant**

**A Motion was made by Mr. Wilson, seconded by Mr. Hudson, to give \$9,833.23 from Mr. Wilson's Councilmanic Grant Account to CHEER for their virtual programs.**

**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. Wilson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 35.4 ACRE SOLAR FIELD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 142.80 ACRES, MORE OR LESS" (Conditional Use No. 2251) filed on behalf of Heimlich Solar Partners, LLC (Tax I.D. No. 530-13.00-10.00) (911 Address: None Available).**

**Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY (19 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.93 ACRES, MORE OR LESS" (Conditional Use No. 2248) filed on behalf of Gulfstream Development, LLC (Tax I.D. No. 134-16.00-382.00) (911 Address: None Available).**

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

**M 519 20  
Go Into  
Executive  
Session**

**At 12:33 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 and personnel.**

**Motion Adopted: 5 Yeas.**



**M 519 20  
(continued)**

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

**Executive  
Session**

**At 12:35 p.m., an Executive Session of the Sussex County Council was held in Council Chambers to discuss matters relating to land acquisition and personnel. The Executive Session concluded at 1:10 p.m.**

**M 520 20  
Reconvene  
Regular  
Session**

**At 1:12 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Wilson, 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**

**M 521 20  
Execute  
and Modify  
Employment  
Agreement/  
County  
Adminis-  
trator**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Council authorizes the President to execute and modify the Employment Agreement with the Sussex County Administrator, as follows: (1) to extend the date of the contract until December 31, 2024 at Midnight, and (2) to extend the notification date of either party at the end of the term from 60 days to 90 days.**

**Motion Adopted: 5 Yeas.**

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

**M 522 20  
Adjourn**

**A Motion was made by Mr. Burton, seconded by Mr. Wilson, to adjourn at 1:14 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.}*