

# **Sussex County Council Public/Media Packet**

**MEETING:  
January 12, 2021**

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**Sussex County Council  
2 The Circle | PO Box 589  
Georgetown, DE 19947  
(302) 855-7743**

Sussex



County

**SUSSEX COUNTY COUNCIL**

**A G E N D A**

**JANUARY 12, 2021**

**10:00 A.M.**

**PLEASE REVIEW MEETING INSTRUCTIONS AT THE BOTTOM OF THE AGENDA**

**Call to Order**

**Approval of Agenda**

**Approval of Minutes – January 5, 2021**

**Reading of Correspondence**

**Public Comments**

**Todd Lawson, County Administrator**

1. Discussion related to meetings held at Delaware Tech
2. Board of Adjustment Appointment
3. Administrator's Report

**Hans Medlarz, County Engineer**

1. The Cove at Sandy Landing
  - A. Bond Redemption
2. Inland Bays Regional Wastewater Facility – Biosolids & Septage Facilities, Project 18-19
  - A. Final Change Order No. 9
3. Dewey Beach Water District Agreement with the City of Rehoboth Beach
  - A. Approval of Amendment No. 1



## **Introduction of Proposed Zoning Ordinances**

## **Council Members' Comments**

## **Adjourn**

In accordance with 29 DeL.C. §10004(e)(2), this Agenda was posted on January 5, 2021 at 4:20 p.m. and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the meeting.

Agenda items may be considered out of sequence.

Further meeting access instructions are listed below.

-MEETING INSTRUCTIONS-

The Sussex County Council is holding this meeting under the authority issued by Governor John C. Carney through Proclamation No. 17-3292.

The public is encouraged to view the meeting on-line. Any person attending in-person will be required to go through a wellness and security screening, including a no-touch temperature check. The public will be required to wear a facial mask.

Chambers seating capacity is limited and seating assignments will be enforced.

The meeting will streamed live at <https://sussexcountyde.gov/council-chamber-broadcast>.

The County is required to provide a dial-in number for the public to comment during the appropriate time of the meeting. **Note, the on-line stream experiences a 30-second delay.** Any person who dials in should listen to the teleconference audio to avoid the on-line stream delay.

To join the meeting via telephone, please dial:

Conference Number: 1-302-394-5036

Conference Code: 570176

Members of the public joining the meeting on the telephone will be provided an opportunity to make comments under the Public Comment section of the meeting and during the respective Public Hearing.

The Council meeting materials, including the “packet”, are electronically accessible on the County’s website at: <https://sussexcountyde.gov/agendas-minutes/county-council>.

If any member of the public would like to submit comments electronically, please feel free to send them to [rgriffith@sussexcountyde.gov](mailto:rgriffith@sussexcountyde.gov). All comments shall be submitted by 4:30 P.M. on Monday, January 11, 2021.

# # # #

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 5, 2021**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 5, 2021, at 10:00 a.m., in Council Chambers, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>Cynthia C. Green</b>	<b>Councilwoman</b>
<b>Douglas B. Hudson</b>	<b>Councilman</b>
<b>John L. Rieley</b>	<b>Councilman</b>
<b>Mark G. Schaeffer</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 001 21  
Approve  
Agenda**

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

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Election of  
Officers**

**Mr. Lawson noted the requirement that the County Council must elect officers for 2021.**

**M 002 21  
Appoint  
President**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that Michael H. Vincent serve as President of the Sussex County Council in 2021.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Rieley, Yea; Mr. Hudson, Yea;  
Mr. Schaeffer, Yea; Mrs. Green, Yea;  
Mr. Vincent, Yea**

**M 003 21  
Appoint  
Vice  
President**

**A Motion was made by Mr. Hudson, seconded by Mr. Vincent, that John L. Rieley serve as Vice President of the Sussex County Council in 2021.**

**Motion Adopted: 5 Yeas.**

**M 003 21  
(continued)**

**Vote by Roll Call: Mr. Hudson, Yea; Mr. Schaeffer, Yea;  
Mrs. Green, Yea; Mr. Vincent, Yea;  
Mr. Rieley, Yea**

**Council  
Member  
Appoint-  
ments**

**Mr. Lawson noted the requirement that Council appoint members to the various boards and committees and he referenced the recommendations included in Council packets for this meeting, as follows: Cynthia Green to the Delaware Association of Counties (County Director); Doug Hudson to the Delaware Association of Counties (Executive Board); Michael Vincent to the Delaware League of Local Governments; John Rieley to the Salisbury/Wicomico MPO (District 5); John Rieley to the Sussex Conservation District Board of Directors; Doug Hudson to the Sussex County Airport Committee; and John Rieley and Mark Schaeffer to the Sussex County Land Trust.**

**M 004 21  
Approve  
Council  
Member  
Appoint-  
ments**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Council approves the Council Member appointments, as presented.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Legal  
Counsel  
Appoint-  
ments**

**Mr. Lawson referenced the appointment of Legal Counsel and the recommendation included in Council packets for this meeting, as follows: County Attorney – J. Everett Moore, Jr.; Assistant County Attorney – Vincent Robertson; and legal representation for the Board of Adjustment, Bond Issuance, Personnel Matters, Planning and Zoning Commission, and Sussex County Council/Government, as follows: Moore & Rutt, P.A.; Parkowski, Guerke and Swayze, P.A.; Ballard Spahr, LLP; and Young Conaway Stargatt & Taylor, LLP.**

**M 005 21  
Approve  
Appoint-  
ment of  
Legal  
Counsel**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Council approves the 2021 appointment of Legal Counsel, as presented.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Rules of  
Procedure**

**Mr. Lawson presented for consideration, the Rules of Procedure which were included in Council packets for this meeting and he noted that there are no recommended changes.**

<b>M 006 21 Approve 2021 Rules of Procedure</b>	<p><b>A Motion was made by Mr. Rieley, seconded by Mr. Hudson, that the Sussex County Council approves the 2021 Rules of Procedure, as presented.</b></p> <p><b>Motion Adopted: 5 Yeas.</b></p> <p><b>Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea; Mr. Hudson, Yea; Mr. Rieley, Yea; Mr. Vincent, Yea</b></p>
<b>Minutes</b>	<p><b>The minutes of December 15, 2020 were approved by consent.</b></p>
<b>Corre- spondence</b>	<p><b>Mr. Moore read correspondence received from West Side New Beginnings, Inc., Sussex County Volunteer Delaware 50+ Advisory Council, Autism Delaware, and Primeros Pasos, Inc.</b></p>
<b>Public Comments</b>	<p><b>Public comments were heard and the following spoke: Paul Reiger in regard to the Board of Adjustment membership.</b></p>
<b>Adminis- trator's Report</b>	<p><b>Mr. Lawson read the following information in his Administrator's Report:</b></p> <ol style="list-style-type: none"><li><p><b><u>1. Delaware State Police Activity Report</u></b></p><p><b>The Delaware State Police year-to-date activity report for November 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 189 troopers assigned to Sussex County for the month of November.</b></p></li><li><p><b><u>2. Projects Receiving Substantial Completion</u></b></p><p><b>Per the attached Engineering Department Fact Sheets, Americana Bayside – Village A Phase 2 (Construction Record) and Lovetts Reserve received Substantial Completion effective December 11th and December 18th, respectively.</b></p><p><b>[Attachments to the Administrator's Report are not attached to the minutes.]</b></p></li></ol>
<b>Bank Account Resolution</b>	<p><b>Mrs. Jennings presented for Council's consideration a Proposed Resolution authorizing signatures on the accounts of Sussex County Council with various financial institutions and investment firms.</b></p>
<b>M 007 21 Adopt R 001 21</b>	<p><b>A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Resolution No. R 001 21 entitled "AUTHORIZING THE SIGNATURES ON THE ACCOUNTS OF THE SUSSEX COUNTY COUNCIL WITH VARIOUS FINANCIAL INSTITUTIONS AND INVESTMENT FIRMS TO BE MICHAEL H. VINCENT, PRESIDENT; JOHN L. RIELEY, VICE PRESIDENT; AND GINA A. JENNINGS, FINANCE DIRECTOR/CHIEF</b></p>

**M 007 21      OPERATING OFFICER”.**

**Adopt**

**R 001 21      Motion Adopted:      5 Yeas.**

**(continued)**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Fourth  
Quarter  
Employee  
Recognition  
Awards**

**Karen Brewington, Human Resources Director, announced the Fourth Quarter recipients of the Shining Star Employee Recognition Program. This program recognizes and celebrates employees who demonstrate exceptional performance, service, and accomplishments that reinforce the County’s mission, vision and goals. Fourth Quarter recipients are Kristen Cooper of the South Coastal Library and Alan Shields of the Constables Office. Mrs. Brewington also announced the Employee of the Year 2020 – Kristen Cooper.**

**Grant  
Requests**

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

**M 008 21  
Council-  
manic  
Grant**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to give \$750.00 from Mr. Vincent’s Councilmanic Grant Account to ReTemp Development Center for Food/Outreach Program.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 009 21  
Countywide  
Youth  
Grant**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to give \$1,000.00 from Countywide Youth Grants to the Delaware Agricultural Museum Association for virtual field trips.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 010 21  
Council-  
manic  
Grant**

**A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$500.00 from Mr. Vincent’s Councilmanic Grant Account to Best Buddies International, Inc. for the Sussex County Inclusion Project.**

**Motion Adopted:      5 Yeas.**

**Vote by Roll Call:      Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**



**M 011 21**  
**Council-**  
**manic**  
**Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, to give \$1,000.00 (\$750.00 from Mr. Vincent's Councilmanic Grant Account and \$250.00 from Mr. Hudson's Councilmanic Grant Account) to the Joseph Patrick Fabber Memorial Foundation for Caring for Our Caregivers.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
**Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Vincent, Yea**

**M 012 21**  
**Council-**  
**manic**  
**Grant**

A Motion was made by Mr. Rieley, seconded by Mr. Hudson, to give \$750.00 from Mr. Vincent's Councilmanic Grant Account to the Trinity Foundation for the Annual Heart & Sole 5K Fundraiser.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
**Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Vincent, Yea**

**Council**  
**Members'**  
**Comments**

**Council Members' Comments**

Mr. Rieley and Mr. Hudson welcomed and congratulated the new Councilmembers – Councilwoman Cynthia Green and Councilman Mark Schaeffer.

**M 013 21**  
**Go Into**  
**Executive**  
**Session**

At 10:23 a.m., a Motion was made by Mr. Rieley, seconded by Mr. Hudson, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to pending litigation and land acquisition.

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;**  
**Mr. Hudson, Yea; Mr. Rieley, Yea;**  
**Mr. Vincent, Yea**

**Executive**  
**Session**

At 10:31 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to pending litigation and land acquisition. The Executive Session concluded at 11:46 a.m.

**M 014 21**  
**Reconvene**  
**Regular**  
**Session**

At 11:50 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Rieley, to come out of Executive Session and reconvene the Regular Session.

**Motion Adopted: 5 Yeas.**



**Public  
Hearing/  
CU 2243  
(continued)**

**Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage clean-up, and similar events.**

- e. There shall not be any dumping of trees, branches, grass or other debris on the site.**
- f. Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- g. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- h. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property's setbacks.**
- i. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**
- k. This use shall be limited to a landscaping business. For purposes of this Conditional Use, "Landscaping" shall include the Applicant's tree service business.**

**(See the minutes of the Planning and Zoning Commission dated November 19 and December 10, 2020.)**

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

**The Council found that Larry Fifer, Attorney, was present on behalf of the Applicant. Mr. Fifer stated that the Applicant is the owner of the property and the owner/operator of the landscaping business; that the application is for an existing landscaping business; that the Applicant resides in the house on the property; that the subject parcel is split-zoned, a portion is GR and a portion is AR-1; that there is a church parking lot on one side of the parcel, and a boat storage yard across the road; that there are other commercial uses in the area; and that there was no opposition at the Planning and Zoning Commission's public hearing.**

**There were no public comments.**

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

**M 017 21  
Amend  
Conditions/  
CU 2243**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to amend Condition "e" recommended by the Planning and Zoning Commission to read as follows: "There shall not be any dumping of trees, stumps and other debris on the property. Branches, limbs, leaves, and mulchable items may be stored on-site in the identified area."**

**Motion Adopted: 5 Yeas.**

**M 017 21  
(continued)**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 018 21  
Adopt  
Ordinance  
No. 2762/  
CU 2243**

**A Motion was made by Mr. Hudson, seconded by Mr. Rieley, to Adopt Ordinance No. 2762 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.18 ACRES, MORE OR LESS”, (Conditional Use No. 2243) filed on behalf of Keith Twardowski, with the following conditions:**

- a. No manufacturing shall occur on the site. This prohibition includes the shredding or grinding of any materials and also includes the dyeing of mulch or similar materials.**
- b. As stated by the Applicant, there shall not be any retail sales occurring from the site.**
- c. One unlighted sign, not to exceed 32 square feet per side, shall be permitted.**
- d. The hours of operation shall be limited to 7:00 a.m. through 6:00 p.m., Monday through Saturday. There shall not be any Sunday hours. The Applicant shall be able to operate beyond these hours on an as-needed basis for limited situations such as snow removal, storm damage clean-up, and similar events.**
- e. There shall not be any dumping of trees, stumps and other debris on the property. Branches, limbs, leaves, and mulchable items may be stored on-site in the identified area.**
- f. Any security lighting shall be screened so that it does not shine on neighborhood properties or roadways.**
- g. The Applicant shall comply with all DelDOT requirements, including any entrance or roadway improvements.**
- h. The Final Site Plan shall clearly show all areas for vehicle and equipment storage and parking, and these areas shall be clearly marked on the site itself. There shall not be any parking or storage within the property’s setbacks.**
- i. Failure to comply with any of these conditions shall be grounds for termination of the Conditional Use approval.**
- j. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**
- k. This use shall be limited to a landscaping business. For purposes of this Conditional Use, “Landscaping” shall include the Applicant’s tree service business.**

**Motion Adopted: 5 Yeas.**

**M 018 21  
(continued)**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CZ 1927**

**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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.5 ACRES, MORE OR LESS” (Change of Zone No. 1927) filed on behalf of Preston Lynch Dyer and Mason Dyer (Tax I.D. No. 334-4.00-34.02 & 34.03) (911 Address: None Available).**

**The Planning and Zoning Commission held a Public Hearing on this application on November 19, 2020 at which time action was deferred. On December 10, 2020, the Commission recommended approval.**

**(See the minutes of the Planning and Zoning Commission dated November 19 and December 10, 2020.)**

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

**The Council found that Preston Dyer, Applicant, and member of Millsboro Town Center 3, LLC was present with Mark Davidson of Pennoni Associates. Mr. Dyer and Mr. Davidson stated that this is a request for a Change of Zone from AR-1 to C-2; that the property is located on a primary arterial road (Route 9); that the proposed uses include retail sales and a variety of retail professional and service businesses; that the rezoning would accommodate the nearby community’s commercial use needs; that the property will have to dedicate 20 feet along the frontage to expand the right-of-way; that there will also be a 15 foot permanent easement dedicated as part of this application; that the property abuts in the back to the Lewes to Georgetown Rails to Trails path that has been recently constructed and there will be access from this site to the Trail; that the application site is in the vicinity of other commercially zoned properties and uses; that a Traffic Impact Study was not required; that there are no wetlands on the site; that the site is located in Artesian’s CPCN for water and sewer service; that no outside storage or sales is proposed; and that the rezoning is compatible with the Comprehensive Plan.**

**There were no public comments.**

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

**M 019 21  
Amend  
Reasons for  
Approval/  
CZ 1927**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to amend Reasons for Approval #5 provided by the Planning and Zoning Commission should read as follows: “The site is in the “Low Density Area” according to the Sussex County Land Use Plan and the Future Land Use Map. This is an appropriate location for C-2 Zoning according to the Plan.”**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 020 21  
Adopt  
Ordinance  
No. 2763/  
CZ 1927**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, to Adopt Ordinance No. 2763 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.5 ACRES, MORE OR LESS” (Change of Zone No. 1927) filed on behalf of Preston Lynch Dyer and Mason Dyer, with the Reasons for Approval of the Planning and Zoning Commission, as amended.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, Yea;  
Mr. Vincent, Yea**

**M 021 21  
Adjourn**

**A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to adjourn at 2:06 p.m.**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Green, Yea; Mr. Schaeffer, Yea;  
Mr. Hudson, Yea; Mr. Rieley, 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.}*

## ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



# Sussex County

DELAWARE  
sussexcountyde.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

## Memorandum

TO: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable Cindy Green  
The Honorable Douglas B. Hudson  
The Honorable John L. Rieley  
The Honorable Mark G. Schaeffer

FROM: Hans Medlarz, P.E., County Engineer

RE: ***The Cove at Sanding Landing, CASL, LLC***  
***Sussex County Code Chapter 99, Single Family Lot Subdivision***  
***Sussex County Engineering Department, File #642***  
***Authorization for Redemption of Security***

DATE: January 12, 2021

In the spring of 2017, County Council approved major changes to County Code, Chapter 99, Subdivision of Land, Section 99-31, Inspections; Closeout Procedures & Fees, establishing provisions on how subdivisions are to be closed out.

In the current economic climate, most developments are thriving despite the pandemic. However, a few developments had been relatively inactive or remained incomplete for various reasons. The Engineering Department applied two criteria to develop a priority action list. The first one being the length of time a project lay dormant the second one being the severity of impact of the incomplete improvements on the overall project functionality such as intermittent sidewalks or unresolved drainage issues.

On September 17, 2019, in effort to complete infrastructure for these developments, Council approved the listing and the associated notifications to rectify outstanding issues within specified time periods or be subject to redemption of the security upon separate Council authorization.

In October 2019, the notifications were sent out to developer who had open projects that met these specific criteria, including The Cove at Sanding Landing developed by CASL, LLC. While currently all those developments either have been closed out or are nearing completion, The Cove at Sandy Landing, has made no progress toward completion. To date, the private road component of the project and its associated improvements remain incomplete. In addition, there are unresolved issues in the State maintained portion of the project which the



*January 12, 2021*

Engineering Department does not oversee. However, lot sales appear complete, in fact, a CASL, LLC representative has stated that the corporation “turned over all final lots to the lender/bank on the project” but to date CASL, LLC has not yet provided a completion date.

The Engineering Department believes it has exhausted efforts to have CASL, LLC complete the improvements. Given the afore mentioned lack of response, the Department requests Council’s authorization to redeem the CASL, LLC’s Performance Bond for completion of all site improvements regulated under County Code Chapter 99 and stipulated by the approved subdivision plan.



## ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 853-5881



# Sussex County

DELAWARE  
sussexcountyde.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

## Memorandum

TO: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable John L. Rieley, Vice President  
The Honorable Cynthia Green  
The Honorable Douglas B. Hudson  
The Honorable Mark G. Schaeffer

FROM: Hans Medlarz, P.E., County Engineer

RE: ***IBRWF –BIOSOLIDS & SEPTAGE FACILITIES, PROJECT 18-19***  
***A. APPROVAL, CHANGE ORDER NO. 9***

DATE: January 12, 2021

On June 2, 2015, County Council initiated a comprehensive biosolids approach at the Inland Bays Regional Wastewater Facility (IBRWF) by approving Whitman, Requardt & Associates' (WRA) base contract Amendment No. 5 for the evaluation of Class A sludge drying options. During the FY17 County Council budget workshop, the Engineering Department presented drying alternatives and a list of potential municipal partners. The conclusion were integrated in the County's subsequent budget.

The treatment & disposal capacity expansion plans for the IBRWF Phase 3 were submitted to DNREC mid-2019. The associated review comments were not received until August 3, 2020. The design team addressed the comments and resubmitted the project documentation to DNREC on October 30, 2020. DNREC's Division of Water continues to support alternative disposal methodologies in lieu of requiring the additional plant effluent storage lagoon no. 3.

Due to timing the biosolids and septage project was developed based on a design assumption of a possible third storage lagoon, publicly advertised and awarded by County Council on June 26, 2018 to Bearing Construction, Inc. in the amount of \$13,668,346.00. DNREC's support of the elimination of the storage lagoon later on allowed a modification of the "as bid" gravity discharge piping, netting a credit of \$73,697.95. However, during the submittal process it became evident that larger sludge cake handling pumps and an associated pump station footprint increase were required resulting in a cost increase of \$73,376.48. The resulting Change Order No. 1, in the net deduct amount of (\$321.47) was approved by Council on October 1, 2019.

IBRWF is one of the sites where the County is pursuing regional stormwater quality improvements. However, the banking program was at that time of submittal under DNREC review and comments were only received in November of 2020. Therefore, the anticipated stormwater enhancements were not yet built and available for use. Tying the project into County owned



stormwater quality credits would have been preferable since the IBRWF is a challenging site to meet individual stormwater requirements. The biosolids and septage facilities construction documents “as bid”, envisioned an innovative low-cost solution which ultimately was rejected by DNREC. The basic, regulatory compliant approach later approved by the Sussex Conservation District, was more involved but less expensive than paying the State’s “fee in lieu”. Therefore, the permitted solution was pursued under a time & material approach resulting in Change Order No. 2 in the amount of \$258,451.63. Approximately 30% of this cost was related to beneficial regrading of spray fields which was accomplished by using material excavated from the stormwater facility rather than trucking it off site.

The time required by WRA and the Department to work through the modification associated with the stormwater improvements triggered a compensatory 81 calendar day contract time extension. The costs of carrying the general conditions associated with each day are known and the parties tracked the working days contractor’s staff was on-site to a total of 45 days in that period. The Engineering Department concurred with Change Order No. 3 in amount of \$61,878.66 to compensate for costs incurred by the contractor during the 81-day time extension.

In an initial value engineering attempt, the Department identified an option which would eliminate process by-pass pumping during construction without negatively impacting either the project integrity or schedule. The value was determined as a combination of equipment rental and labor cost to set-up and operate the system. Credit Change Order No. 4 was developed in the deduct amount of (\$77,000.00), eliminating the by-pass pumping requirement. The associated Change Order Nos. 2, 3 & 4 were approved by Council on January 14, 2020.

The County’s IT Department requested a scope modification from multi-mode fiber to single mode fiber for improved communication capability in addition, the Environmental Services Division requested a communication ductbank extension to the future filtration building location resulting in a combined valuation of \$16,954.95.

The elimination of the storage lagoon no. 3 had allowed a modification in the plant’s gravity discharge piping resulting in the credit covered under Change Order No.1. Additional cost savings were identified by no longer routing the effluent forcemain as well as the electrical ductbank around the deleted lagoon shortening the distance significantly for a credit valued at (\$92,258.68). On April 28, 2020 County Council approved Change Order No. 5 covering both items in the net deduct amount of (\$75,303.73).

By regrading the entrance section of the facility, the Department was able to partially eliminate the stormwater pipe run between structures SD-12 & SD-13 under PCO-007. The material cost credit in addition to the reduced labor and equipment utilization resulted in an overall credit of (\$23,011.34).

The Department further reviewed the overall site grading for deficiencies as well as value engineering opportunities. Unfortunately, a large area south of the sludge cake storage building was holding water and could not be drained requiring an infiltration basin at a time & material cost of \$92,361.50 covered under PCO-016. The value engineering opportunity resulted in a reduction of impervious surface area, the addition of level spreaders with infiltration wells and addressed the utility adjustments of all existing electrical manholes for a credit amount of (\$13,902.92) summarized in PCO-015.

The other item which surfaced at that time was the sludge cake piping. Change Order No. 1 had already addressed the increase in pump size however, the associated discharge piping issue within the station was left unresolved. The Engineering Department, in direct cooperation with the equipment manufacturer Komline-Sanderson, developed an alternate piping plan for the interior sludge cake pump station. The topic had been discussed between WRA and manufacturer during the design phase but was never fully incorporated in the construction documents. The associated cost for PCO-017 was \$17,151.26. On July 28, 2020, Council approved Change Order No. 6 encompassing PCOs 007 & 015-017 in the combined amount of \$72,598.50.

During the final construction stages electric scope gaps were identified in PCO-018 in the amount of \$14,499.29 for conveyor sensors and auger emergency shut offs. Furthermore, additional utility air and water piping, fittings, valves, and insulation to satisfy overall system performance were addressed under PCO-019 in the amount of \$41,933.55. On September 22, 2020 Council approved Change Order No. 7 covering PCOs 018 & 019 in the combined amount of \$56,432.84.

In September all parties anticipated a full start up in early October. However, two days into start up on October 6, 2020 the thermal fluid pump started cavitating. Upon investigation, it was determined that the coating of the thermal fluid piping system had delaminated leaving no choice but complete piping replacement. The replacement was accomplished under an expedited time & material approach and completed within three weeks under PCO-021 at a cost of \$82,838.58. The thermal fluid pump performed as designed during the November 3, 2020 restart despite a significant number of residual coating pieces still found in the strainer.

Sludge drying at IBWRF was conceived as a 9-months, non-freezing weather operation in an open two-sided structure. This approach allowed the building to be permitted without a sprinkler system. In the light of the start-up delays and the mounting sludge inventories, the Department requested PCO-020 valued at \$22,700.36 for a polyethylene curtain wall at the east side of the structure allowing extended operational capabilities. The curtain is installed but experienced significant movement during one of the more intense recent storms. Therefore, the Department requested PCO-025 valued at \$4,488.00 to better secure the curtain during high wind events.

On November 17, 2020 County Council issued Change Order No. 8 encompassing PCOs 020 & 021 in the combined amount of \$105,538.94.

PCO-017 part of approved Change Order No. 6 issued by Council on July 28, 2020, covered the interior sludge piping. Unfortunately, since then it was determined the underground sludge piping appears to be another significant contributor to the excessive pump discharge pressure encountered during the November 2, 2020 second start-up attempt. The Department, in cooperation with the contractor, developed an alternate aerial sludge piping system which has been implemented under PCO-022 on a time & material basis at a cost of \$156,164.02. This cost includes system betterments such as flushing capabilities to allow for the winterization of the system. These features were successfully used in December when the system was shut down for the season. The contractor will start it back up in March for County staff training and final performance testing prior to County acceptance.

The third start up attempt in November 2020 was successful and the sludge feed was delivered to the dryer. The pressure in the piping system is now at 200psi maximum with the optimum design

pressure being less than 150psi. Therefore, the Department laid out a lubrication system which was priced out by the contractor under PCO-024 at \$65,780.40. This application will bring the operating pressures within the optimum range allowing long-term benefits. In addition, we determined that the sludge cake pump room floor was holding water. In order to achieve positive drainage, the Department requested PCO-022 to install a sloped epoxy flooring system valued at a discounted cost of \$15,204.00. The discount takes into consideration the contractor's responsibility on a percentage basis for the areas where the slope is out of specification.

The Engineering Department is recommending approval of Change Order No. 9 in the accumulative value of \$241,636.42.

The contractor is considering withdrawing the previously submitted compensatory time extension change order and its associated costs in exchange for the County's withdrawal of potential liquidated damages. Discussions with WRA regarding the evaluation of responsibility with regards to the three time & material change orders associated with the site design, thermal fluid piping and the sludge discharge piping are still ongoing.



New above ground  
direct feed stainless  
steel sludge piping.

Date of Issuance: January 12, 2021	Effective Date: January 12, 2021
Owner: Sussex County	Owner's Contract No.: 18-19
Contractor: Bearing Construction, Inc.	Contractor's Project No.:
Engineer:	Engineer's Project No.:
Project: Inland Bays Regional Wastewater Facility	Contract Name: Regional Biosolids & Septage Facilities

The Contract is modified as follows upon execution of this Change Order:

Description: Implementation of an alternate sludge piping and lubrication system, installation of a sloped epoxy flooring system and modification of a weather curtain.

Attachments: PCO 022-025

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price:  \$ <u>13,668,346.00</u>	Original Contract Times: 474 Calendar Days Substantial Completion: <u>474 Calendar Days</u> Ready for Final Payment: _____ days or dates
Increase from previously approved Change Orders No. <u>1</u> to No. <u>8</u> :  \$ <u>402,275.37</u>	Increase from previously approved Change Orders No. <u>1</u> to No. <u>8</u> : 81 days Substantial Completion: <u>555 Calendar Days</u> Ready for Final Payment: _____ days
Contract Price prior to this Change Order:  \$ <u>14,070,621.37</u>	Contract Times prior to this Change Order: Substantial Completion: <u>555 Calendar Days</u> Ready for Final Payment: _____ days or dates
Increase of this Change Order:  \$ <u>241,636.42</u>	[Increase] [Decrease] of this Change Order: 0 days Substantial Completion: <u>555 Calendar Days</u> Ready for Final Payment: _____ days or dates
Contract Price incorporating this Change Order:  \$ <u>14,312,257.79</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>555 Calendar Days</u> Ready for Final Payment: _____ days or dates

RECOMMENDED:		ACCEPTED:		ACCEPTED:	
By: _____	By: _____	By: _____	By: _____	By: _____	By: _____
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)	Contractor (Authorized Signature)	Contractor (Authorized Signature)	Contractor (Authorized Signature)
Title: _____	Title: _____	Title: _____	Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____	Date: _____	Date: _____	Date: _____

Approved by Funding Agency (if applicable)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Title: \_\_\_\_\_



805 Shine Smith Road  
Sudlersville, MD 21668  
P: 410.556.6100 ● F: 410.556.6574

**INLAND BAYS REGIONAL WASTEWATER TREATMENT FACILITY  
REGIONAL BIOSOLIDS AND SEPTAGE FACILITIES  
Sussex County Project: 18-19**

### **PROPOSED CHANGE ORDER**

PCO #18117-022 Epoxy Sludge Receiving Floor  
1/5/2021

**Background:** The concrete floor in the Sludge Receiving Building retains water underneath the hoppers.

**Scope Narrative:** Bearing Construction's subcontractor (Pro-Coat) will prep and perform epoxying of Sludge Receiving Building floor so that the water will drain to sump pit.

This proposal may be withdrawn if not accepted within fourteen (14) calendar days.

This total proposed change order <adder> including labor, materials, equipment, overhead, profit and bond costs is: **\$15,204.00**

Respectfully submitted,

*Robert L. Saia, Jr.*

Robert Saia  
Project Manager  
Bearing Construction, Inc.



## PROPOSED CHANGE ORDER

Date: 5-Jan-21

Proposed Change Order Number: 18117-022

Inland Bays Regional Wastewater Facility Upgrades

### Scope of Work

Epoxy Sludge Receiving Floors

### Materials & Labor

	Material	Labor	Equipment
Project Management	\$ -	\$ 285.00	\$ -
Supervision	\$ -	\$ 1,080.00	\$ -
	\$ -	\$ -	\$ -
Materials Subtotal: \$ -			
Labor Total: \$ 1,365.00			
Equipment Subtotal \$ -			
10% Overhead: \$ - \$ 136.50 \$ -			
Labor, Materials, Equipment Costs with Taxes & Overhead: \$ 1,501.50			

### Subcontract

Pro-Coat	Epoxy Sludge Receiving Floor	\$ 19,150.00
	(Bearing Construction responsible for area beneath hoppers = DEDUCT)	\$ (6,100.00)
		\$ -
		\$ -
		\$ -
Subcontract Subtotal:		\$ 13,050.00
5% Overhead on Subcontract Work:		\$ 652.50
Subcontract Costs with Overhead:		\$ 13,702.50
Total of Labor & Materials: \$ 1,501.50		
Total of Subcontract: \$ 13,702.50		
Subtotal of Materials & Subcontract: \$ 15,204.00		
Cost of Bond: \$ -		
Total Proposed Change Order: \$ 15,204.00		





805 Shine Smith Road  
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P: 410.556.6100 ● F: 410.556.6574

**INLAND BAYS REGIONAL WASTEWATER TREATMENT FACILITY  
REGIONAL BIOSOLIDS AND SEPTAGE FACILITIES  
Sussex County Project: 18-19**

## **PROPOSED CHANGE ORDER**

PCO #18117-023 Replace Sludge Piping  
1/6/2021

**Background:** At the request of Sussex County, the below ground process piping needs to be abandoned and re-routed above ground with supports.

**Scope Narrative:** Bearing Construction's will abandon in place the underground piping from the Sludge Receiving Building to the Bio-solids Dryer with stainless steel piping and install supports.

This proposal may be withdrawn if not accepted within fourteen (14) calendar days.

This total proposed change order <adder> including labor, materials, equipment, overhead, profit and bond costs is: **\$156,164.02.**

Respectfully submitted,

*Robert L. Saia, Jr.*

Robert Saia  
Project Manager  
Bearing Construction, Inc.



## PROPOSED CHANGE ORDER

Date: 5-Jan-21

Proposed Change Order Number: 18117-023

Inland Bays Regional Wastewater Facility Upgrades

### Scope of Work

Sludge Piping Replacement to Dryer

Materials & Labor		Material	Labor	Equipment
Project Manager	48 @ \$95/hr		\$ 4,560.00	
Superintendent	266 @ \$135/hr (includes overtime)		\$ 35,910.00	
Technician/Mechanic (2 total)	296 @ \$105/hr (includes overtime)		\$ 31,080.00	
Labor	315 @ \$50/hr (includes overtime)		\$ 15,750.00	
Tri Supply	Miscellaneous	\$ 1,402.07		
Ferguson	Pipe/Fittings/Valves *	\$ 18,455.01		
National Pipe Hanger	Piping Supports	\$ 1,034.26		
Roberts Oxygen	Miscellaneous Welding Material	\$ 357.74		
Atlantic Concrete	Concrete	\$ 389.00		
Billy Warren & Son LLC	Pipe Fittings/Flanges	\$ 20,328.81		
Keen	Miscellaneous Supplies	\$ 272.90		
Belair Road Supply	Pipe Fitting Materials	\$ 170.00		
Tulsa Tube Bending	3R 90° Piping (bend)	\$ 1,755.00		
CPM Leasing Co. LLC	Equipment			\$ 9,600.00
Aerial Service	Crane/Lift			\$ 902.50
Materials Subtotal:		\$ 44,164.79		
Labor Total:			\$ 87,300.00	
Equipment Subtotal				\$ 10,502.50
10% Overhead:		\$ 4,416.48	\$ 8,730.00	\$ 1,050.25
Labor, Materials, Equipment Costs with Taxes & Overhead:			\$ 156,164.02	
* Bearing to cover 1/2 cost of pressure ring (\$2,148.10 deducted)				
Subcontract				
		\$ -		
		\$ -		
		\$ -		
		\$ -		
Subcontract Subtotal:		\$ -		
5% Overhead on Subcontract Work:		\$ -		
Subcontract Costs with Overhead:			\$ -	
Total of Labor & Materials: \$ 156,164.02				
Total of Subcontract: \$ -				
Subtotal of Materials & Subcontract: \$ 156,164.02				
Cost of Bond: \$ -				
Total Proposed Change Order: \$ 156,164.02				



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**INLAND BAYS REGIONAL WASTEWATER TREATMENT FACILITY  
REGIONAL BIOSOLIDS AND SEPTAGE FACILITIES  
Sussex County Project: 18-19**

## **PROPOSED CHANGE ORDER**

PCO #18117-024 Installation of Lubrication Pump & Injection Rings  
1/5/2021

**Background:** Sussex County requests that a Lubrication System be installed to facilitate the flow of product.

**Scope Narrative:** Bearing Construction's subcontractor (Bilbrough) will provide and install a Lubrication System connected to the existing VFD's in the Sludge Receiving Building.

This proposal may be withdrawn if not accepted within fourteen (14) calendar days.

This total proposed change order <adder> including labor, materials, equipment, overhead, profit and bond costs is: **\$65,780.40**

Respectfully submitted,

*Robert L. Saia, Jr.*

Robert Saia  
Project Manager  
Bearing Construction, Inc.



805 Shine Smith Road  
Sudlersville, MD 21668  
P: 410.556.6100 F: 410.556.6574

## PROPOSED CHANGE ORDER

Date: 5-Jan-21

Proposed Change Order Number: 18117-024

Inland Bays Regional Wastewater Facility Upgrades

### Scope of Work

Install Lubrication Rings & Pump

### Materials & Labor

	Material	Labor	Equipment
Project Management	\$ -	\$ 285.00	\$ -
Supervision	\$ -	\$ 2,160.00	\$ -
Labor	\$ -	\$ 3,000.00	\$ -
Materials (miscellaneous fittings)	\$ 9,770.20	\$ -	\$ -
Lubrication Rings (3)	\$ 22,500.00	\$ -	\$ 250.00

Materials Subtotal: \$ 32,270.20

Labor Total: \$ 5,445.00

Equipment Subtotal \$ 250.00

10% Overhead: \$ 3,227.02 \$ 544.50 \$ 25.00

Labor, Materials, Equipment Costs with Taxes & Overhead: \$ 41,761.72

### Subcontract

NOY	Lubrication Pump	\$ 11,499.00
Bilbrough Electric	VFD Connection to Lubrication System Pump	\$ 11,375.93
		\$ -
		\$ -
		\$ -

Subcontract Subtotal: \$ 22,874.93

5% Overhead on Subcontract Work: \$ 1,143.75

Subcontract Costs with Overhead: \$ 24,018.68

Total of Labor & Materials: \$ 41,761.72

Total of Subcontract: \$ 24,018.68

Subtotal of Materials & Subcontract: \$ 65,780.40

Cost of Bond: \$ -

**Total Proposed Change Order: \$ 65,780.40**



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**INLAND BAYS REGIONAL WASTEWATER TREATMENT FACILITY  
REGIONAL BIOSOLIDS AND SEPTAGE FACILITIES  
Sussex County Project: 18-19**

## **PROPOSED CHANGE ORDER**

PCO #18117-025 Weather Curtain System Modification  
1/5/2021

**Background:** Sussex County requests that a modification be made to the Weather Curtains on the East side of the Bio-solids Dryer Building.

**Scope Narrative:** Bearing Construction will make the necessary modifications to the existing Weather Curtains to reduce wind effect.

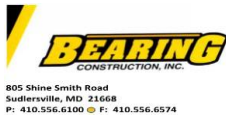
This proposal may be withdrawn if not accepted within fourteen (14) calendar days.

This total proposed change order <adder> including labor, materials, equipment, overhead, profit and bond costs is: **\$4,488.00**

Respectfully submitted,

*Robert L. Saia, Jr.*

Robert Saia  
Project Manager  
Bearing Construction, Inc.



# PROPOSED CHANGE ORDER

Date: 5-Jan-21

Proposed Change Order Number: 18117-025

Inland Bays Regional Wastewater Facility Upgrades

Scope of Work

Weather Curtain Modification

Materials & Labor		Material	Labor
Project Management		\$ -	\$ 190.00
Supervision		\$ -	\$ 540.00
Labor		\$ -	\$ 1,600.00
Materials		\$ 1,750.00	\$ -
Materials Subtotal:		\$ 1,750.00	
Labor Total:			\$ 2,330.00
Equipment Subtotal			
10% Overhead:		\$ 175.00	\$ 233.00
Labor, Materials, Equipment Costs with Taxes & Overhead:			\$ 4,488.00
Subcontract			
		\$ -	
		\$ -	
		\$ -	
		\$ -	
		\$ -	
Subcontract Subtotal:		\$ -	
5% Overhead on Subcontract Work:		\$ -	
Subcontract Costs with Overhead:			\$ -
Total of Labor & Materials:		\$ 4,488.00	
Total of Subcontract:		\$ -	
Subtotal of Materials & Subcontract:		\$ 4,488.00	
Cost of Bond:		\$ -	
Total Proposed Change Order:		\$ 4,488.00	



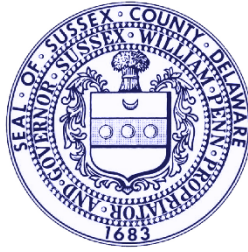
Pressure gage readings during operation of the Inland Bays sludge transfer pump station November 2020.





## ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



# Sussex County

DELAWARE  
sussexcountyde.gov

HANS M. MEDLARZ, P.E.  
COUNTY ENGINEER

## Memorandum

TO: Sussex County Council  
The Honorable Michael H. Vincent, President  
The Honorable John L. Rieley, Vice President  
The Honorable Cynthia Green  
The Honorable Douglas B. Hudson  
The Honorable Mark G. Schaeffer

FROM: Hans Medlarz, P.E., County Engineer

RE: ***Dewey Beach Water Agreement with City of Rehoboth Beach  
Approval of Amendment No.1***

DATE: January 12, 2021

Sussex County purchases bulk water from the City of Rehoboth Beach for distribution to its customers in the County's Dewey Beach Water District. This arrangement dates to the 1980s with the latest 5-year term approved by County Council on January 29, 2016.

The cost of the water is based on the City's expenses exclusively associated with the cost for production, treatment, transmission, storage and metering of the water prorated on a percentage basis by the past 5-year flow ratio between the City and County customers. In addition, the City has proposed a comprehensive 5-year capital plan which is funded directly out of the user rates without financing and incorporated into the proposed bulk water rate. The Finance Director and the County Engineer reviewed the City of Rehoboth's submitted financial statements and verified that the proposed blended rate aligns with the expenses incurred by their water enterprise fund and the proposed capital plan. The amendment addresses the following:

- New term 1/1/2021 through 12/31/2025
- Blended 5-year fixed rate of \$5.05 per 1,000 gallons w/o escalation
- Discontinuation of peak use summer surcharge

All other parts of the Agreement remain in effect. The language has been drafted by the County Attorney's office and reviewed and concurred to by the City's administration. The expenses under this agreement will be paid using the service charges collected by the Dewey Beach Water District customers. This increase, if not absorbed in other areas of the water budget, will be phased in over FY21 and FY26. The Engineering Department recommends approval by County Council.





## **AMENDMENT TO WATER AGREEMENT**

THIS AMENDMENT TO WATER AGREEMENT is made this \_\_\_\_ day of January 2021, by and between THE CITY OF REHOBOTH BEACH, a municipal corporation of the State of Delaware (the “City”), and SUSSEX COUNTY, a political subdivision of the State of Delaware (the “County”).

### **RECITALS**

WHEREAS, on February 19, 2016, the City and County entered into a Water Agreement in which the City agreed to sell to the County, and the County agreed to purchase from the City, water to supply users within the Dewey Beach Water District (“Agreement”); and

WHEREAS, the initial term of the Agreement expired on December 31, 2020; and

WHEREAS, the parties desire to renew the Agreement and to modify several terms thereof as more fully set forth herein.

NOW, THEREFORE, for the sum of One Dollar (\$1.00) and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The Recitals above are incorporated herein by reference.
2. Paragraph 3 of the Agreement shall be deleted in its entirety as follows:

“It is mutually agreed by the parties hereto that the term of this Agreement shall be enforced for a period commencing on January 1, 2016 and terminating December 31, 2020.”

The following new paragraph 3 shall be substituted in its place and stead:

“It is mutually agreed by the parties hereto that the term of this Agreement shall be enforced for a period commencing on January 1, 2020 and terminating December 31, 2025.”

3. Paragraph 5 of the Agreement shall be deleted in its entirety as follows:

“5. County agrees to pay to City for water furnished pursuant to the terms hereof according to the following rates and charges:

- a) The basic rate of \$2.10 per 1,000 gallons for all water purchased after January 1, 2016, provided this basic rate shall be increased by \$0.06 for each 1,000 gallons of water beginning on January 1, 2017 and on each succeeding January 1, thereafter.

- b) A peak use surcharge of \$1.00 per 1,000 gallons of water purchased shall be charged during the period of April 1 through September 30 of each year. This peak surcharge is in addition to the basic rate in Section (a) above.”

The following new paragraph 5 shall be substituted in its place and stead:

“5. Commencing on January 1, 2021, the County shall pay the City the rate of \$5.05 per 1,000 gallons for all water purchased. This rate shall continue throughout the term of this Agreement.”

4. The Rate Schedule attached to the Agreement is hereby deleted in its entirety.
5. All other terms and conditions in the Agreement shall remain in full force and effect.
6. The Effective Date of this Amendment shall be January 1, 2021.
7. In the event any terms of the Water Agreement and this Amendment conflict, the terms of this Amendment shall control.
8. This Amendment may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Electronic signatures and photocopies or facsimile copies of signatures shall be deemed to have the same force and effect as originals.

IN WITNESS WHEREOF, the parties have duly executed this Amendment to on the respective date(s) set forth below.

**CITY OF REHOBOTH BEACH:**

\_\_\_\_\_  
Date

By: \_\_\_\_\_(SEAL)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SUSSEX COUNTY:**

\_\_\_\_\_  
Date

By: \_\_\_\_\_(SEAL)

Name: \_\_\_\_\_

President, Sussex County Council

Attest: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**To Be Introduced 01/12/21**

**Council District 1 - Vincent**

**Tax I.D. Nos. 132-6.00-88.01 and 95.00, and 132-11.00-41.00 and 41.02**

**911 Address: 28338 Enviro Way, Seaford**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONAL USE NO. 1314 (ORDINANCE NO. 1354) (AS AMENDED BY CONDITIONAL USE NO. 1691 (ORDINANCE NO. 1865) AND CONDITIONAL USE NO. 1962 (ORDINANCE NO. 2311)) TO PERMIT THE PROCESSING AND HANDLING OF POULTRY LITTER TO INCLUDE NUTRIENT RECOVERY FOR NATURAL GAS AND ELECTRICAL GENERATION, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 228.88 ACRES, MORE OR LESS**

**WHEREAS, on the 22nd day of December 2020, a conditional use application, denominated Conditional Use No. 2258 was filed on behalf of Bioenergy Development Group, LLC; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_ 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2258 be \_\_\_\_; and**

**WHEREAS, on the \_\_\_\_ day of \_\_\_\_ 2021, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.**

**NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2258 as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land, lying and being situate in Broad Creek Hundred, Sussex County, Delaware, and lying on the west side of Seaford Road (Route 13A) approximately 0.2 mile north of Oneals Road (S.C.R. 485), and being more particularly described in the attached legal description prepared by Parkowski, Guerke & Swayze, P.A., said parcel containing 228.88 acres, more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**