

COUNTY COUNCIL

MICHAEL H. VINCENT, PRESIDENT
IRWIN G. BURTON III, VICE PRESIDENT
DOUGLAS B. HUDSON
JOHN L. RIELEY
SAMUEL R. WILSON JR.



Sussex County

DELAWARE
sussexcountyde.gov
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SUSSEX COUNTY COUNCIL

AGENDA

NOVEMBER 12, 2019

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Public Comments

Todd Lawson, County Administrator

1. Discussion and possible action related to the Collective Bargaining Agreement with AFSCME AFL-CIO and its Affiliated Local Union 1926
2. Administrator's Report

10:30 A.M. Public Hearing

“AN ORDINANCE TO AMEND CHAPTER 103 (“TAXATION”) OF THE CODE OF SUSSEX COUNTY TO INCLUDE A NEW ARTICLE VI, §§ 103-39 THROUGH 103-42 WHICH SHALL PERMIT THE IMPOSITION OF A LOCAL LODGING TAX OF NO MORE THAN 3% OF THE RENT FOR ANY ROOM IN A HOTEL, MOTEL OR TOURIST HOME IN THE UNINCORPORATED AREAS OF SUSSEX COUNTY”

Hans Medlarz, County Engineer

1. Western Sussex Transmission Facilities, Contract 4, Pump Stations, Project S19-28
 - A. Recommendation to Award



2. FY 2019 General Labor & Equipment Contract, Project No. 19-01

A. Change Order No. 2 – FY 20

Old Business

Conditional Use No. 2183 filed on behalf of Brent and Lisa Hershey

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE FACILITY WITH OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 9.167 ACRES, MORE OR LESS” (Tax I.D. No. 235-15.00-26.07) (911 Address: 14374 Clyde’s Drive, Milton)

Conditional Use No. 2184 filed on behalf of Linda Ann Yupco-Connors

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRE, MORE OR LESS” (Tax I.D. No. 334-11.00-15.00) (911 Address: 32260 Jimtown Road, Lewes)

Conditional Use No. 2187 filed on behalf of Daniel Ostinvil

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MOTOR VEHICLE SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.1657 ACRE, MORE OR LESS” (Tax I.D. No. 232-12.18-51.00) (911 Address: 31016 North Poplar Street, Laurel)

Grant Requests

- 1. Good Samaritan Aid Organization for annual Christmas outreach for needy families**

Introduction of Proposed Zoning Ordinances

Council Members’ Comments

Executive Session – Pending Litigation and Land Acquisition pursuant to 29 Del.C.§10004(b)

Possible Action on Executive Session Items

Adjourn

Sussex County Council meetings can be monitored on the internet at www.sussexcountyde.gov.

In accordance with 29 Del.C. §10004(e)(2), this Agenda was posted on November 5, 2019 at 5:05 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.

###

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 5, 2019

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 5, 2019, at 1:00 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

Call to Order

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

Mr. Vincent called the meeting to order.

**M 546 19
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to amend the Agenda by deleting “Western Sussex Transmission Facilities, Contract 4, Pump Stations, Project S19-28, Recommendation to Award”, 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 October 29, 2019 were approved by consent.

**Public
Comments**

A public comment period was held and the following spoke: Paul Reiger and David Stevenson.

**Retiree
Recognition**

The Council recognized Steven Bradley, Paramedic, who is retiring after 25 years of service to Sussex County.

**Adminis-
trator’s
Report**

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

1. “Stockings for Soldiers”

A reminder that Sussex County Government is joining Sussex County Volunteer Delaware 50+ and the State Office of Volunteerism in collecting donated items for deployed servicemen and women who are serving during the holidays. A donation box for “Stockings for Soldiers”

**Adminis-
trator's
Report
(continued)**

has been placed in the County Administrative Offices building and includes a shopping list for deployed men and women, as well as our K9 soldiers. Donations to the County's box will be accepted up to November 12th. The public along with County employees are encouraged to join in and give back to the men and women (and K9s) who serve our country.

2. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Beebe Medical Center – South Coastal E.D. & Cancer Center received Substantial Completion effective October 30th.

3. Veterans Day Holiday

County offices will be closed on Monday, November 11th, in honor of Veterans Day. Offices will reopen on Tuesday, November 12th, at 8:30 a.m., and Council will meet at 10:00 a.m.

4. Sarah Washington

It is with sadness that we note the passing of County pensioner Sarah "Shirley" Washington on Wednesday, October 23rd. Ms. Washington began her career with Sussex County in August 1976 where she worked in the Prothonotary's Office until September 1987 for a total of 11 years of service. We wish to extend our condolences to the Washington family.

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

**FY2020
Human
Service
Grants
Recom-
mendation**

Mrs. Jennings provided the FY2020 Human Service Grants recommendation and an overview of the program. This program provides grants to countywide non-profit agencies for the purpose of enhancing health and human services, which contribute to a safe, healthy and self-sufficient community. This program provides grants that assist organizations with operating or capital expenses.

Mrs. Jennings explained the application process. She discussed the online application and the formula-based approach to awarding Human Service Grants. Mrs. Jennings outlined the method and criteria for determining recommended grant amounts and presented the recommended Human Service Grants for Fiscal Year 2020 (funds totaling \$224,488.00).

**M 547 19
Approve
FY2020
Human
Service
Grants**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, that the Sussex County Council approves the Fiscal Year 2020 Human Service Grants allocation, as presented.

Motion Adopted: 5 Yeas.

**M 547 19
(continued)**

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

**Robinson-
ville Road
Core
Infra-
structure/
Project
S19-16**

Hans Medlarz, County Engineer, presented bid results for the Robinsonville Road Core Infrastructure Project, Project S19-16 (a combined water/sewer construction project). Three bids were received; the Engineering Department recommends that the bid be awarded to the lowest responsible bidder, Teal Construction, Inc. of Dover, Delaware, in the amount of \$1,635,126.00. Tidewater Utilities has concurred with the County's recommendation.

**M 548 19
Award
Bid/
Robinson-
ville Road
Core
Infra-
structure/
Project
S19-16**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Contract S19-16, Robinsonville Road Core Infrastructure, be awarded to Teal Construction, Inc. for their total bid of \$1,635,126.00.

Motion Adopted: 5 Yeas.

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

**Ellendale
Water
District
Agreement/
Design
Services**

Hans Medlarz, County Engineer, presented a Design Services Agreement with Davis Bowen & Friedel (DBF) for the Ellendale Water District. The agreement is for design, permitting and bidding assistance for new waterline construction along N/S Old State Road to serve properties in the Ellendale Water District. The Engineering Department recommends approval of DBF's proposal in the amount of \$185,000.00.

**M 549 19
Approve
Ellendale
Water
District
Agreement**

A Motion was made by Mr. Burton, seconded by Mr. Hudson, based upon the recommendation of the Sussex County Engineering Department, that the Ellendale Water District Agreement with Davis Bowen & Friedel be approved in the amount not to exceed \$185,000.00 for design, permitting, bidding, survey and geotechnical work.

Motion Adopted: 5 Yeas.

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

**Addendum
to MOU
with
Beebe
Medical
Center**

John Ashman, Director of Utility Planning, presented Addendum No. 1 to the County's Memorandum of Understanding with Beebe Medical Center for sanitary sewer service for their new Radiation Oncology Center on Route 24. Addendum No. 1 addresses additional lands that Beebe Medical Center wishes to connect to the County's existing sanitary sewer service.

**M 550 19
Approve
Addendum
to MOU
with
Beebe
Medical
Center**

A Motion was made by Mr. Burton, seconded by Mr. Rieley, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Addendum No. 1 to the Memorandum of Understanding between Sussex County and Beebe Medical Center adding Parcel 334-12.00-125.00 to the original Memorandum of Understanding, as presented.

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinance**

Mr. Hudson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION TO A RESTAURANT (SEASIDE BAR AND GRILL) WITHIN A MANUFACTURED HOME PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.3 ACRES, MORE OR LESS” (Conditional Use No. 2191) filed on behalf of Jason Hill (Tax I.D. No. 234-31.00-4.00 (portion of) (911 Address: None Available).

The Proposed Ordinance will be advertised for Public Hearing.

**Public
Hearing/
CU 2186**

At 1:30 p.m., a Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND GR GENERAL RESIDENTIAL DISTRICT FOR SLUDGE AND WASTEWATER SPRAY IRRIGATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 351.86 ACRES, MORE OR LESS” (Conditional Use No. 2186) filed on behalf of Mountaire Farms of Delaware, Inc. (Tax I.D. No. 234-28.00-1.00, 2.00, and 3.00) (911 Address: None Available).

Mr. Moore read the rules of procedure for zoning hearings.

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

The Planning and Zoning Commission held a Public Hearing on this application on October 10, 2019 at which time action was deferred. On October 24, 2019, the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated October 10 and 24, 2019.)

Ms. Cornwell noted that letters of opposition have been received.

**Public
Hearing/
CU 2186
(continued)**

The Council found that Lisa McLaughlin, Attorney, was present with Michael Tirrell, Mountaire's Vice President of Processing and Operations, and Tanya Rogers-Vickers, Mountaire's Director of Environmental Compliance. They stated that Mountaire has a multi-million dollar wastewater treatment plant in Millsboro; that upgrades to the plant are being worked on; that they have 13 spray irrigation fields where they spray the treated wastewater; that they have 5 bio-solid/sludge fields where sludge is applied from the wastewater treatment plant; that no sludge has been applied since October 2017; that they already own the subject properties; that the application is for a request to use two of the parcels that were sludge fields for use for spray irrigation of treated wastewater; that this is not a request to increase production; that this is not a request to add more spray irrigation water, just more land for spray irrigation; that approval of this application will help Mountaire meet the objectives that they have with DNREC to bring everything into compliance in Millsboro; that they have a total of 13 permitted spray irrigation fields; that 6 of the fields are located south of John J. Williams Highway adjacent to the Mountaire facility; that the remaining 7 fields are located north of John J. Williams Highway on both sides of Maryland Camp Road; that these 13 fields are permitted and the permits require at least monthly reporting, monitoring at different frequencies and visits and inspections, both scheduled and unannounced; that these spray fields require 50 foot buffers from roads and property lines; that this application is for approval of 350 additional acres to add to their spray irrigated property acres; that the additional land will provide Mountaire better flexibility in their spray irrigation operation; that Mountaire has no plans to increase production and they only want to better manage the current flow; that the water sprayed onto their fields is used to help their crops grow; that the water is piped to the fields; that the crops are harvested and used by Mountaire; that they currently spray on a little over 900 acres; that Mountaire provides employment to approximately 3,000 people at their facility in Millsboro; that they provide employment for hundreds of chicken growers and farmers; that they contribute to the vitally important agricultural community; that they are working to bring the facility into full compliance; that they are spending millions of dollars to bring the facility up to a state-of-the-art facility; and that the application meets all County Code requirements.

There were no public comments in support of the application.

Public comments were heard in opposition to the application.

Andrea Green, Attorney with Jacobs & Crumplar, was in attendance in opposition to the application. She advised that the law firm is involved in some litigation involving both Mountaire and DNREC; that the litigation currently pending regarding Mountaire deals with claims regarding harm to their clients (health, enjoyment of life, and property values); that she would not speak to the merits of that litigation; that the law firm of Jacobs and Crumplar has also in the past forwarded a Notice of Intent to Sue in Federal Court regarding DNREC's failure to enforce certain environmental

**Public
Hearing/
CU 2186
(continued)**

regulations specifically with respect to its oversight of Mountaire; that shortly thereafter, DNREC filed suit against Mountaire in Federal Court and this litigation is currently Stayed pending negotiations between the parties; and that the litigation that Jason and Crumplar has also filed on behalf of over 100 plaintiffs in Sussex County is also Stayed pending negotiations between the parties. Ms. Green referenced the Gag Order issued by Superior Court on September 13, 2019 and its impact on the individual litigants and their ability to make statements regarding this application. Ms. Green stated that this application seeks approval for future conduct that their clients believe carries the risk of adding more harmful nitrates into an environment that is already subject to extreme stress; that what Mountaire is proposing is not truly an agricultural activity; that they are proposing to dispose of industrial waste on these lands; that it is not necessary to irrigate lands or apply fertilizer on a regular basis; that Mountaire is an operation that utilizes 2.4 million gallons of water per day all year long; that the application is for sludge and wastewater spray irrigation but the Applicant has stated that Mountaire has not been and does not plan to apply sludge; that this will also include sanitary sewer; that the subject properties adjoin a residential development; that Mountaire has a history of violations. Ms. Green referenced the Zoning Code and stated that this application does not promote the health, safety, morals, convenience, prosperity and general welfare of residents of the County. Ms. Green also stated that it would be best for Council to defer a decision until there has been a resolution to the litigation.

At the request of Council, County Engineer Hans Medlarz commented on the County's South Coastal and Wolfe Neck facilities and spray irrigation lands.

Mike Huff, Maria Payan, Lou Podolske, Keith Steck, and Leon Dudley also spoke in opposition to the application. They stated that Mountaire and DNREC have proven they cannot be trusted; that many residents are experiencing health issues; that chloroform has been found in the water; that the water quality in the area needs to be protected; that there have been fish kills in area creeks; that runoff feeds into Indian River and into the bays; that there was a spill at Mountaire of approximately 1 million gallons of wastewater earlier this year; that health and environmental impacts need to be considered; that they question why the rendering plant is still operational; that DNREC doesn't do anything when Mountaire violates DNREC permits; that the Council should stipulate requirements for Mountaire to develop a plan and a timetable so as not to spread pollution further; that the area is a designated Coastal Zone and wastewater should not be placed on that kind of property; that the reference to sludge should be taken out of the application since the Applicant stated that they do not plan to apply sludge; and that Mountaire's application and the Sussex County Engineering Memo of September 9th erroneously state that the project is just over 200 acres and the actual size is over 350 acres. Mr. Huff presented a sample of well water

(continued) from a faucet in the area.

There were no additional public comments.

The Public Hearing was closed.

**M 551 19
Record
Open/
CU 2186**

A Motion was made by Mr. Hudson, seconded by Mr. Burton, to leave the record open on Conditional Use No. 2186 for Council to ask questions of staff and agencies; that all questions have to be submitted by November 12th at 4:30 p.m.; that responses to those questions are due back by December 9th at 4:30 p.m.; that the Planning and Zoning Director will report to Council on the questions raised and the answers received at the Council meeting on December 10th; thereafter, for a period of 5 days, the record will remain open for the public and the Applicant to comment, in writing, on the responses received (responses due by December 16th at 4:30 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**

**M 552 19
Defer
Action on
CU 2186**

A Motion was made by Mr. Hudson, seconded by Mr. Wilson, to defer action on Conditional Use No. 2186 filed on behalf of Mountaire Farms of Delaware, Inc.

Motion Adopted: 5 Yeas.

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

**M 553 19
Recess
Regular
Session**

At 3:00 p.m., a Motion was made by Mr. Hudson, seconded by Mr. Burton, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to collective bargaining, land acquisition and personnel.

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 3:10 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 collective bargaining, land acquisition and personnel. The Executive Session concluded at 3:57 p.m.

M 554 19 **At 4:01 p.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson,**
Reconvene **to come out of Executive Session and to 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

E/S Action **There was no action on Executive Session matters.**

M 555 19 **At 4:02 p.m., a Motion was made by Mr. Burton, seconded by Mr. Wilson,**
Adjourn **to adjourn.**

Motion Adopted: 5 Yeas.

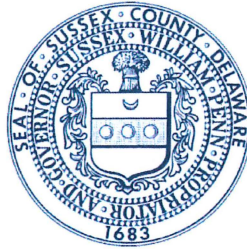
Vote by Roll Call: Mr. Hudson, Yea; Mr. Rieley, Yea;
 Mr. Wilson, Yea; Mr. Burton, Yea;
 Mr. Vincent, Yea

Respectfully submitted,

Robin A. Griffith
Clerk of the Council

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


TODD F. LAWSON
COUNTY ADMINISTRATOR
(302) 855-7742 T
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Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Irwin G. Burton III, Vice President
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Samuel R. Wilson Jr.

FROM: Todd F. Lawson
County Administrator 

RE: **LODGING TAX ORDINANCE**

DATE: November 8, 2019

During Tuesday's meeting, we are scheduled to hold a public hearing on the ordinance related to a lodging tax in Sussex County.

As you may recall, this initiative started more than a year ago when the Delaware General Assembly approved enabling legislation for New Castle County to enact a lodging tax in that county only. With legislators' support, both Sussex and Kent counties were successful in having the General Assembly pass enabling legislation for the two counties. A copy of the legislation, House Bill No. 228, is attached.

Per the legislation, Sussex County may impose up to a 3% tax of the rent for any room or rooms in a hotel, motel, or tourist home, as defined by Delaware Code. The objective in Sussex County is to seek a funding source, in this case predominantly tourists and visitors to our region, for needed improvements to the very things that are directly affected by the guests to our region. The tax only applies to venues within unincorporated Sussex County.

With this in mind, the legislation approved for Sussex County limited the funding categories. The lodging tax funding only can be spent on projects within Sussex County and only on the following: capital and operating costs of beach nourishment, waterway dredging, economic development, tourism programs, recreational activities, and water quality and flood control projects. In addition, Sussex is permitted to use up to 5% of the funding for administration costs.



Over the last several months, County staff has taken steps to prepare for this initiative. Staff has had conversations with the State's Finance Department regarding the collection of the funds. For now, the funds will be collected by requiring hotels and motels to submit monthly payment vouchers to the County. A copy of the monthly payment voucher is attached.

However, moving forward the State will be undergoing an update to their tax collection software and it is our hope that the County's lodging tax can be coupled with the State's accommodation tax collection and processed electronically, thereby removing the County from the collection process. We will know more about the State's software upgrades in 2020.

In addition, staff has identified more than 40 qualified venues within unincorporated Sussex County that will be subject to any new lodging tax. The estimated annual revenue for the lodging tax is approximately \$1.3 million.

As the tax is collected, the funds will be placed in a "lock box" account that is controlled by the County. Any future expenditure of the funds will be decided by County Council and deliberated during the annual budget approval process. Knowing that a priority will be focused on waterway dredging, staff met with the Department of Natural Resources and Environmental Control (DNREC) and discussed the upcoming waterway dredging projects the agency has for Sussex County.

Please let me know if you have any questions.

Attachments

pc: J. Everett Moore Jr., Esq.
Gina A. Jennings, Finance Director/COO



SPONSOR: Rep. Schwartzkopf & Sen. Hocker
Reps. Briggs King, Dukes, Gray, K. Johnson, Osienski,
D. Short; Sens. Lopez, Pettyjohn, Poore, Richardson,
Sturgeon, Wilson

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 228

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO TAXES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 81, Title 9 of the Delaware Code by making deletions as shown by strike through,
2 insertions as shown by underline as follows and redesignating accordingly:

3 § 8112 Lodging tax.

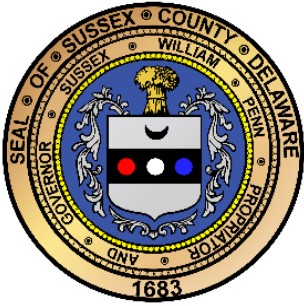
4 (a) Any county with a population greater than 500,000 may impose, by duly enacted ordinance, a local lodging
5 tax of no more than 3 percent of the rent, in addition to the amount imposed by the State, for any room or rooms in a hotel,
6 motel or tourist home, as defined in § 6101 of Title 30, which is located within the unincorporated areas of the county.

7 (b) Sussex county may impose, by duly enacted ordinance, a local lodging tax of no more than 3 percent of the
8 rent, in addition to the amount imposed by the State, for any room or rooms in a hotel, motel or tourist home, as defined in
9 § 6101 of Title 30, which is located within the unincorporated areas of Sussex County. Any funds realized by Sussex
10 County pursuant to this subsection shall be expended solely within Sussex County, for the capital and operating costs of
11 beach nourishment, waterway dredging, economic development, tourism programs, recreational activities, and water quality
12 and flood control projects. An amount not to exceed 5% of the funds realized from the tax may be used to pay the costs of
13 administering projects funded under this subsection.

14 ~~(b)~~(c) Rentals by the Delaware Department of Natural Resources and Environmental Control shall be exempt
15 from the lodging tax established by this section.

SYNOPSIS

This Act allows Sussex County, by duly enacted ordinance, to impose a local lodging tax of no more than 3 percent of rent on rooms in a hotel, motel or tourist home located in the unincorporated areas of the County. Such funds may only be used in Sussex County for the capital and operating costs of beach nourishment, waterway dredging, economic development, tourism programs, recreational activities, and water quality and flood control projects.



Sussex County Finance Department

LODGING TAX * MONTHLY PAYMENT VOUCHER

* Tax applies to all operators in unincorporated Sussex County with a state license for: Hotels, Motels, and Tourist Homes. Payment for the current month is due on the 15th of the following month.

Business Name:

Business Property Address:

Account/Parcel Number:

Telephone Number:

Email Address:

Taxable Basis

For: * 2020

* 3% Tax Rate for Rents Received

* Select the month for which you are paying from the drop-down menu.

Total Tax Due = \$

I declare under penalties of perjury, that this is a true, correct, and complete return.

Authorized Signature: _____

Date:

Telephone Number:

Email Address:

Please make check payable to **Sussex County**.

Return completed voucher and check to: Sussex County
PO Box 601
Georgetown, DE 19947

If you need assistance or have questions, please call Krystle Vogel at (302) 855-7765.

Introduced 10/22/19

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 103 (“TAXATION”) OF THE CODE OF SUSSEX COUNTY TO INCLUDE A NEW ARTICLE VI, §§ 103-39 THROUGH 103-42 WHICH SHALL PERMIT THE IMPOSITION OF A LOCAL LODGING TAX OF NO MORE THAN 3% OF THE RENT FOR ANY ROOM IN A HOTEL, MOTEL OR TOURIST HOME IN THE UNINCORPORATED AREAS OF SUSSEX COUNTY.

WHEREAS, on July 1, 2019, the Delaware General Assembly enacted House Bill No. 228, “An Act to Amend Title 9 of the Delaware Code Relating to Taxes”; and

WHEREAS, on July 17, 2019, Governor John Carney signed HB 228 into law; and

WHEREAS, HB 228, as codified in 9 *Del. C.* § 8112(b), authorizes Sussex County to impose, by ordinance, a local lodging tax of up to 3% of the rent, in addition to the tax imposed by the State, for any room or rooms in a hotel, motel, or tourist home, as defined in 30 *Del. C.* § 6101, within the unincorporated areas of the county; and

WHEREAS, 9 *Del. C.* § 8112(c) exempts rentals by the Delaware Department of Natural Resources and Environmental Control; and

WHEREAS, it is the intent of the Sussex County Council to impose and collect the lodging tax in manner similar to the State.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. Chapter 103 (“Taxation”) of the Code of Sussex County is hereby amended by adding a new Article VI, §§103-39 through 103-42 entitled “Lodging Tax,” by inserting the underlined language as follows:

“Article VI Lodging Tax

§ 103-39 Definitions.

The definitions in 30 *Del. C.* § 6101 (Lodging Tax Definitions) are hereby incorporated by reference.

§ 139-40 Levy of Tax; Exemption; Collection; Payment

- A. A tax is hereby levied at the rate of three percent (3%) of the rent upon every occupancy of a room or rooms in a hotel, motel or tourist home within unincorporated sections of Sussex County. Such tax shall be in addition to the lodging tax imposed by the State pursuant to 30 Del. C. § 6102.
- B. No lodging tax pursuant to this Article shall be imposed for reservations or contracts paid in full prior to January 1, 2020.
- C. No lodging tax pursuant to this Article shall be imposed upon rentals by the Delaware Department of Natural Resources and Environmental Control.
- D. The lodging tax is imposed on the occupant and shall be collected by the operator from the occupant at the time of the payment of the rent for the occupancy.
- E. The amount of tax collected for each month shall be reported and remitted to the Sussex County Department of Finance, or its designee, not later than the fifteenth (15th) day of the month following the month of collection on forms to be prescribed by the Sussex County Department of Finance.

§ 139-41 Late penalty; abatement

- A. A penalty at the rate of one percent (1%) per month, or fraction thereof, shall be charged on payments made after the prescribed due date.
- B. Upon written application to the Sussex County Department of Finance, along with supporting documentation, the Finance Director hereby is authorized to abate penalty up to and including the requested amount of abatement. The Finance Director is not authorized to abate principal.

§ 139-42 Failure to pay tax; determination; redetermination; review; additional penalty

- A. Determination.

If any operator fails to pay any lodging tax for which he or she is liable, the Sussex County Department of Finance may determine the additional tax and penalty due by such person or entity, based upon any information within its possession or that shall come

into its possession. All such determinations shall be made so that notice thereof shall be mailed to the person or entity against whom the determination was made within three (3) years after the date the lodging tax became due.

B. Copy of determination to person; petition of redetermination; duty for disposition of petitions; notice of final decision.

Promptly after the date of such determination, the Sussex County Department of Finance shall send, by certified mail to the physical address of the operator, a copy thereof to the person or entity against whom such determination was made. Within ninety (90) days thereafter, the operator may file with the Sussex County Department of Finance a petition for redetermination of such taxes. The petitioner shall state with specificity the reasons the petitioner believes justify redetermination and shall affirm under penalty of perjury that the petition for redetermination is not made for the purpose of delay and that the facts set forth therein are true. The Sussex County Department of Finance shall make a final decision within six (6) months after the date of receipt of the petition and promptly provide written notice thereof to the petitioner.

C. Additional Penalty.

In addition to late penalty, a one-time penalty of ten percent (10%) shall be imposed on any additional tax determined to be due by the Sussex County Department of Finance.”

Section 2. The provisions of this Ordinance shall be severable. If any provision of this Ordinance is found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that County Council would have enacted the remaining valid provisions without the unconstitutional or void one, or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with County Council's intent. If any provision of this Ordinance is found to be unconstitutional or void, all applicable former ordinances, resolutions or portions thereof shall become applicable and shall be considered as continuations thereof and not as new enactments regardless if severability is possible.

Section 3. Effective Date. This Ordinance shall become effective January 1, 2020.

Synopsis

This Ordinance amends Chapter 103 ("Taxation") of the Sussex County Code by adopting a new Article VI, §§ 103-39 through 103-42 which shall permit the imposition of a local lodging tax of no more than 3% of the rent for any room in hotel, motel or tourist home in the unincorporated areas of Sussex County in accordance with 9 *Del. C.* § 8112(b). The effective date for the tax imposed by this ordinance is January 1, 2020. Accordingly, operators of hotels, motels and tourist homes shall remit to the Sussex County Department of Finance, or its designee, the lodging tax imposed herein for January 2020 no later than February 15, 2020.

No text has been deleted. All new text is underlined and in quotations.

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

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Irwin G. Burton III, Vice President
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Samuel R. Wilson, Jr.

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

RE: *Western Sussex Transmission Facilities:
Contract 4: Pump Stations, Project S19-28
A. Recommendation to Award*

DATE: November 12, 2019

The Town of Bridgeville for the time being owns and operates a sanitary sewer system for the Bridgeville/Greenwood service area. In February 2017, the municipal councils of Bridgeville and Greenwood requested investigation of an alternate County Sewer District based scenario. Upon review of the findings both municipal Councils requested formation of a County sewer district pursuant to Title 9 Del. Code § 6501, and on August 22, 2017, County Council adopted a resolution establishing the Western Sussex Area of the Unified Sewer District.

Since then the Engineering and Finance Departments submitted the project to DNREC for funding consideration under the Clean Water State Revolving Fund (CWSRF) and on August 14, 2018, the State issued a binding commitment offer in the overall amount of \$16,634,748 to be repaid within 30-years with 2.5% interest. On November 27, 2018, Council accepted the offer and approved the associated borrowing ordinance. After project completion, \$3,200,000 will be applied in principle forgiveness reducing the overall borrowing.

On December 5, 2017, Council approved the GMB, Inc. base contract in conjunction with Amendment No.1 in the amount of \$ 1,302,178.00 for engineering planning, design and construction phase services in conjunction with transmission facilities to convey wastewater from the Towns of Bridgeville and Greenwood to Seaford for treatment and disposal. On April 2, 2019, Council approved Amendment No. 2 to GMB, Inc.'s base contact.



The project was broken down in four contracts based on schedule and scope. On May 14, 2019 County Council awarded contracts no. 1 & 2 as follows:

- Contract No.1 to A-Del Construction Co, Inc. in the amount of \$3,224,820.00, for the force main work in the RT-13 right-of-way.
- Contract No.2 to Pact One LLC in the amount of \$3,063,255.00, for the gravity sewer upgrades.

On October 2, 2019, bids for contract no.4, consisting of the pump stations and equalization chambers, were publicly advertised, forwarded directly to contractors and made available on the County website. Seven (7) plan holders attended the pre-bid and on November 6, 2019, four (4) bids were received. Zack's Excavating, Inc. submitted the low base bid plus bid alternate no.1 in the amount of \$3,236,939.00. The Engineering Department and GMB recommend awarding the project to Zack's Excavating, Inc. contingent upon SRF concurrence.

■ ■ ■ ■

ARCHITECTS
ENGINEERS

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SEAFORD, DE 19973
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SALISBURY
BALTIMORE
SEAFORD

www.gmbnet.com

■ ■ ■ ■

JAMES H. WILLEY, JR., PE
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JOHN E. BURNSWORTH, PE
MICHAEL G. KOBIN, PE
VINCENT A. LUCIANI, PE
ANDREW J. LYONS, JR., PE
W. NICHOLAS LLOYD
ALITUMN J. WILLIS

November 8, 2019

Sussex County Engineering Dept.
2 The Circle
Georgetown, DE 19958

Attn: Hans Medlarz, P.E.
County Engineer

Re: Western Sussex Transmission Facilities: Pump
Stations Sussex County Project 19-28: Contract 4
Sussex County, Delaware
GMB File No. R170219

Dear Mr. Medlarz:

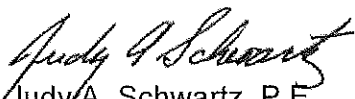
Bids for the referenced project were opened at the County Council Chambers at 2:00 p.m. on Wednesday, November 6, 2019. A copy of the Bid Opening Summary, Detailed Bid Tabulation, and copies of the four (4) bids received are enclosed for your files.

The lowest responsible total base bid was received from Zack Excavating in the amount of \$3,416,623.00. Alternate Bid Item D1 in the amount of \$18,000.00 would remove the DelDOT entrance at PS-16 site from the contract. Also, Bid Schedule A includes two alternate bid items (BA-1 and BA-2) which are for air burst systems at the Bridgeville WWTP Pump Station (\$56,096.00) and Overflow Tank (\$179,684.00) respectively.

GMB recommends an award to Zack Excavating in the amount of \$3,236,939.00, which includes the Total Base Bid (Schedules A + B + C), including Item BA-1 but not Item BA-2, contingent upon the concurrence of DNREC. Further, we are recommending that Bid Item BA-2 not be awarded, and Bid Item D1 not be deducted, due to unfavorable pricing.

If you have any questions, please do not hesitate to contact me at 302.628.1421. Thank you.

Sincerely,


Judy A. Schwartz, P.E.
Sr. Vice President/Project Director

Enclosures

WSTF: Project 19-28: Pump Stations														
					Engineer's Estimate		Zack Excavating		JJID		Kuhn Construction		Chesapeake Turf	
NO.	ITEM	SIZE OR DEPTH	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
Schedule A: Bid Items (DBF Documents)														
1	Mobilization, Bonds, and Insurance (Max. 5% of Base Bid) (Note: Covers both GMB and DBF Documents)	--	LS	1	\$ 184,000.00	\$ 184,000.00	\$ 100,000.00	\$ 100,000.00	\$ 210,000.00	\$ 210,000.00	\$ 240,000.00	\$ 240,000.00	\$ 249,500.00	\$ 249,500.00
2	Furnish and Install Sewer Pump Station (Complete)	--	LS	1	\$ 800,000.00	\$ 800,000.00	\$ 865,022.00	\$ 865,022.00	\$ 1,100,000.00	\$ 1,100,000.00	\$ 1,200,000.00	\$ 1,200,000.00	\$ 1,540,000.00	\$ 1,540,000.00
3	Furnish and Install Gravity Sewer, Fittings, and Appurtenances (SDR-35)	12"	LF	575	\$ 400.00	\$ 230,000.00	\$ 243.00	\$ 139,725.00	\$ 250.00	\$ 143,750.00	\$ 266.00	\$ 152,950.00	\$ 146.00	\$ 83,950.00
		18"	LF	75	\$ 500.00	\$ 37,500.00	\$ 195.00	\$ 14,625.00	\$ 200.00	\$ 15,000.00	\$ 360.00	\$ 27,000.00	\$ 281.00	\$ 21,075.00
		24"	LF	75	\$ 600.00	\$ 45,000.00	\$ 215.00	\$ 16,125.00	\$ 200.00	\$ 15,000.00	\$ 475.00	\$ 35,625.00	\$ 302.00	\$ 22,650.00
4	Furnish and Install Gravity Sewer, Fittings, and Appurtenances (Ductile Iron)	24"	LF	35	\$ 675.00	\$ 23,625.00	\$ 280.00	\$ 9,800.00	\$ 200.00	\$ 7,000.00	\$ 615.00	\$ 21,525.00	\$ 654.00	\$ 22,890.00
5	Furnish and Install Manholes and Appurtenances	4' Dia.	VF	17	\$ 1,000.00	\$ 17,000.00	\$ 900.00	\$ 15,300.00	\$ 500.00	\$ 8,500.00	\$ 545.00	\$ 9,265.00	\$ 1,354.00	\$ 23,018.00
		5' Dia.	VF	11	\$ 1,500.00	\$ 16,500.00	\$ 1,200.00	\$ 13,200.00	\$ 2,700.00	\$ 29,700.00	\$ 2,450.00	\$ 26,950.00	\$ 2,629.00	\$ 28,919.00
6	Furnish and Install Inside Drop Manholes and Appurtenances	5' Dia.	VF	20	\$ 1,500.00	\$ 30,000.00	\$ 1,350.00	\$ 27,000.00	\$ 2,500.00	\$ 50,000.00	\$ 3,000.00	\$ 60,000.00	\$ 2,222.00	\$ 44,440.00
7	Furnish and Install Doghouse Manholes and Appurtenances	4' Dia.	VF	11	\$ 1,250.00	\$ 13,750.00	\$ 950.00	\$ 10,450.00	\$ 1,100.00	\$ 12,100.00	\$ 1,320.00	\$ 14,520.00	\$ 1,905.00	\$ 20,955.00
8	Core Drill and Connection to Overflow Tank	--	LS	1	\$ 15,000.00	\$ 15,000.00	\$ 5,000.00	\$ 5,000.00	\$ 25,000.00	\$ 25,000.00	\$ 7,310.00	\$ 7,310.00	\$ 52,500.00	\$ 52,500.00
9	Furnish and Install C-900/905 PVC Force Main	6"	LF	90	\$ 120.00	\$ 10,800.00	\$ 85.00	\$ 7,650.00	\$ 150.00	\$ 13,500.00	\$ 290.00	\$ 26,100.00	\$ 250.00	\$ 22,500.00
		8"	LF	37	\$ 150.00	\$ 5,550.00	\$ 105.00	\$ 3,885.00	\$ 500.00	\$ 18,500.00	\$ 306.00	\$ 11,322.00	\$ 471.00	\$ 17,427.00
		12"	LF	75	\$ 170.00	\$ 12,750.00	\$ 250.00	\$ 18,750.00	\$ 200.00	\$ 15,000.00	\$ 236.00	\$ 17,700.00	\$ 655.00	\$ 49,125.00
		16"	LF	25	\$ 200.00	\$ 5,000.00	\$ 780.00	\$ 19,500.00	\$ 250.00	\$ 6,250.00	\$ 1,245.00	\$ 31,125.00	\$ 1,133.00	\$ 28,325.00
10	Furnish and Install Heritage Shores Sanitary Sewer Structure (Complete)	--	LS	1	\$ 140,000.00	\$ 140,000.00	\$ 310,000.00	\$ 310,000.00	\$ 330,000.00	\$ 330,000.00	\$ 510,000.00	\$ 510,000.00	\$ 300,600.00	\$ 300,600.00
11	Remove and Dispose of Existing Curb Concrete Curb/Curb and Gutter, Full Depth	--	LF	150	\$ 50.00	\$ 7,500.00	\$ 10.00	\$ 1,500.00	\$ 70.00	\$ 10,500.00	\$ 30.00	\$ 4,500.00	\$ 34.00	\$ 5,100.00
12	Furnish and Install New PCC or Curb and Gutter	--	LF	20	\$ 85.00	\$ 1,700.00	\$ 35.00	\$ 700.00	\$ 150.00	\$ 3,000.00	\$ 150.00	\$ 3,000.00	\$ 225.00	\$ 4,500.00
13	Furnish and Install GABC Type B Stone Pavement Base Material including Preparation and Compaction of Pavement Subgrade	--	CY	50	\$ 100.00	\$ 5,000.00	\$ 60.00	\$ 3,000.00	\$ 250.00	\$ 12,500.00	\$ 125.00	\$ 6,250.00	\$ 228.00	\$ 11,400.00
14	Furnish & Install Base Course - Type B Bituminous Concrete	--	TON	30	\$ 150.00	\$ 4,500.00	\$ 95.00	\$ 2,850.00	\$ 200.00	\$ 6,000.00	\$ 165.00	\$ 4,950.00	\$ 289.00	\$ 8,670.00
15	Furnish & Install Surface Course - Type C Bituminous Concrete	--	TON	35	\$ 150.00	\$ 5,250.00	\$ 98.00	\$ 3,430.00	\$ 200.00	\$ 7,000.00	\$ 175.00	\$ 6,125.00	\$ 289.00	\$ 10,115.00
BA-1	Pump Station Wet Well Air Burst System	--	LS	1	\$ 70,000.00	\$ 70,000.00	\$ 56,096.00	\$ 56,096.00	\$ 140,000.00	\$ 140,000.00	\$ 131,000.00	\$ 131,000.00	\$ 136,000.00	\$ 136,000.00
BA-2	Overflow Tank Air Burst System	--	LS	1	\$ 120,000.00	\$ 120,000.00	\$ 179,684.00	\$ 179,684.00	\$ 110,000.00	\$ 110,000.00	\$ 190,000.00	\$ 190,000.00	\$ 96,500.00	\$ 96,500.00
A-1	Delmarva Power Electric	--	LS	1	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
A-2	Chesapeake Utilities Gas	--	LS	1	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
A-3	SCADA Relocation	--	LS	1	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
Subtotal Schedule A: Bid Items (DBF Documents)						\$ 1,870,425.00		\$ 1,893,292.00		\$ 2,358,300.00		\$ 2,807,217.00		\$ 2,870,159.00
Schedule B: Bid Items (GMB Documents)														
B-1	Heritage Shores Pump Station Demolition, Modifications, Force Main, Etc. on PS Site	-	LS	1	\$ 200,000.00	\$ 200,000.00	\$ 145,000.00	\$ 145,000.00	\$ 200,000.00	\$ 200,000.00	\$ 225,000.00	\$ 225,000.00	\$ 416,500.00	\$ 416,500.00

B-2	New Pump Station #16 Construction, Electrical, Communications, Valve Vault, Flow Control Structure, Storm Drain, Paving, Etc. on PS Site	-	LS	1	\$ 800,000.00	\$ 800,000.00	\$ 775,266.00	\$ 775,266.00	\$ 1,150,000.00	\$ 1,150,000.00	\$ 1,060,000.00	\$ 1,060,000.00	\$ 1,198,500.00	\$ 1,198,500.00
B-3	Furnish and Install Gravity Sewer, Fittings and Appurtenances (SDR-35	10"	LF	249	\$ 400.00	\$ 99,600.00	\$ 80.00	\$ 19,920.00	\$ 160.00	\$ 39,840.00	\$ 250.00	\$ 62,250.00	\$ 154.00	\$ 38,346.00
B-4	Furnish and Install Polypropylene Sanitary Sewer	42"	LF	1,144	\$ 550.00	\$ 629,200.00	\$ 330.00	\$ 377,520.00	\$ 230.00	\$ 263,120.00	\$ 460.00	\$ 526,240.00	\$ 204.00	\$ 233,376.00
B-5	Furnish and Install 42"S Manhole and Appurtenances	--	VF	18	\$ 1,200.00	\$ 21,600.00	\$ 1,700.00	\$ 30,600.00	\$ 2,700.00	\$ 48,600.00	\$ 1,120.00	\$ 20,160.00	\$ 2,672.00	\$ 48,096.00
B-6	Furnish and Install Inside Drop Manhole and Appurtenances	--	VF	27	\$ 1,300.00	\$ 35,100.00	\$ 950.00	\$ 25,650.00	\$ 900.00	\$ 24,300.00	\$ 1,160.00	\$ 31,320.00	\$ 1,925.00	\$ 51,975.00
B-7	Furnish and Install Force Main Discharge to 42"S Manhole and Appurtenances	--	VF	8	\$ 1,750.00	\$ 14,000.00	\$ 2,000.00	\$ 16,000.00	\$ 2,000.00	\$ 16,000.00	\$ 2,635.00	\$ 21,080.00	\$ 3,314.00	\$ 26,512.00
B-8	Furnish and Install C900/905 PVC Force Main	10"	LF	129	\$ 200.00	\$ 25,800.00	\$ 75.00	\$ 9,675.00	\$ 120.00	\$ 15,480.00	\$ 235.00	\$ 30,315.00	\$ 138.00	\$ 17,802.00
Subtotal Schedule B: Bid Items (GMB Documents)						\$ 1,825,300.00		\$ 1,399,631.00		\$ 1,757,340.00		\$ 1,976,365.00		\$ 2,031,107.00
Schedule C: Contingent Bid Items (Entire Project)														
C-1	Contingent Unclassified Excavation	-	CY	450	\$ 50.00	\$ 22,500.00	\$ 30.00	\$ 13,500.00	\$ 30.00	\$ 13,500.00	\$ 55.00	\$ 24,750.00	\$ 25.00	\$ 11,250.00
C-2	Contingent Borrow Material, Borrow Type "C" (Backfill)	-	CY	1850	\$ 50.00	\$ 92,500.00	\$ 38.00	\$ 70,300.00	\$ 35.00	\$ 64,750.00	\$ 35.00	\$ 64,750.00	\$ 20.00	\$ 37,000.00
C-3	Contingent Aggregate Material, Graded Aggregate Type "B" (Crusher Run)	-	CY	50	\$ 75.00	\$ 3,750.00	\$ 42.00	\$ 2,100.00	\$ 75.00	\$ 3,750.00	\$ 135.00	\$ 6,750.00	\$ 70.00	\$ 3,500.00
C-4	Contingent Porous Fill Material, Coarse Aggregate No. 57 Stone	-	CY	350	\$ 65.00	\$ 22,750.00	\$ 68.00	\$ 23,800.00	\$ 75.00	\$ 26,250.00	\$ 140.00	\$ 49,000.00	\$ 90.00	\$ 31,500.00
C-5	Furnish and Place 4,000 PSI concrete	-	CY	40	\$ 600.00	\$ 24,000.00	\$ 350.00	\$ 14,000.00	\$ 150.00	\$ 6,000.00	\$ 500.00	\$ 20,000.00	\$ 250.00	\$ 10,000.00
Subtotal Schedule C: Contingent Bid Items (Entire Project)						\$ 165,500.00		\$ 123,700.00		\$ 114,250.00		\$ 165,250.00		\$ 93,250.00
Total: (Schedules A + B + C)						\$ 3,861,225.00		\$ 3,416,623.00		\$ 4,229,890.00		\$ 4,948,832.00		\$ 4,994,516.00
Schedule D: Alternate Bid Items														
D-1	DEDUCT - PS #16 DeIDOT ROW Entrance Improvements	-	LS	1	\$ (50,000.00)	\$ (50,000.00)	\$ (18,000.00)	\$ (18,000.00)	\$ (10,000.00)	\$ (10,000.00)	\$ (5,000.00)	\$ (5,000.00)	\$ (12,875.00)	\$ (12,875.00)
Subtotal Schedule D: Alternate Bid Items						\$ (50,000.00)		\$ (18,000.00)		\$ (10,000.00)		\$ (5,000.00)		\$ (12,875.00)

ENGINEERING DEPARTMENT

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Sussex County

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HANS M. MEDLARZ, P.E.
COUNTY ENGINEER

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Irwin G. Burton III, Vice President
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Samuel R. Wilson, Jr.

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

RE: *FY 2019 General Labor & Equipment Contract, Project No. 19-01
Change Order No. 2 – FY 20*

DATE: November 12, 2019

In the past, Sussex County followed a traditional design, bid and build approach. However, the increased minor and major capital project load associated with aging infrastructure required a more efficient project delivery system. In response, the Engineering Department developed a competitively selected time and material, best value bid process consistent with the County Procurement Policy.

The first General Labor & Equipment Contract for FY 17 was awarded by Council to George & Lynch, Inc., on June 21, 2016, and Council renewed the contract on June 13, 2017 for an additional one-year period based on performance. Throughout this two (2) year timeframe, a significant scope of work was completed with considerable cost and time savings.

Therefore, the Engineering Department re-advertised the contract in the spring of 2018 again using the “best value” approach and on April 24, 2018, Council awarded the FY 2019 General Labor & Equipment Contract to George & Lynch, Inc., of Dover, Delaware, at the first year bid amount of \$4,827,190.00. This contract award was valid for one year, with an option for Council to extend it, based on contractor performance, for two (2) additional one-year periods at the same unit prices.

On June 11, 2019, Council approved the first one-year extension extending the contract through June 30, 2020 under the unit prices previously bid, in the amount of up to \$7,395,000 for the project completion as budgeted in the capital projects for the Environmental Services Division and the Coastal Airport with scope changes to be presented on a case by case basis.

The original scope neither included the Chapel Branch sewer district expansion nor the IBRWF Spray on Demand Loop projects. The Engineering Department requested inclusion of both with



limited up-front construction in the approved FY 20 scope of work as well as a funding increase in legacy paving. On July 16, 2019 Council approved Change Order No. 1- FY 20, in the total amount of \$370,000.00.

Since then several emergencies as well as urgent repair issues have arisen. In order to cover the expanded scope, the Engineering Department is requesting approval of Change Order No. 2- FY 20, in the total amount of \$292,200.00 as per the attached breakdown. Appropriate funding for each non-emergency work item was previously approved in the FY 20 budget. Both emergency work items resulted from 3rd party damage to the County's infrastructure and are therefore considered reimbursable items.

FY 19 GENERAL LABOR & EQUIPMENT CONTRACT CHANGE ORDER No. 2 - FY 20	
DESCRIPTION	COSTS
Emergency Repair of 24-inch fire supression main at the Coastel Business Park	\$140,000.00
Emergency Repair of 10-inch forcemain in Old Landing Road	\$30,000.00
PS 66 Precast Wet Well and Valve Vault	\$30,000.00
PS 67 Precast Wet Well and Valve Vault	\$30,000.00
Airport Guard Station Structure Removal	\$3,800.00
DE Coastal Business Park Conduit Installation	\$20,000.00
PS176 Valve Replacement	\$38,400.00
Total Change Order No. 2 - FY 20	\$292,200.00



**SUSSEX COUNTY
CHANGE ORDER REQUEST**

A. ADMINISTRATIVE:

1. Project Name: **FY 2019 General Labor & Equipment Contract**
2. Sussex County Project No. 19-01
3. Change Order No. 2 - FY 20
4. Date Change Order Initiated - 11/5/19
5.
 - a. Original Contract Sum \$7,395,000.00
 - b. Net Change by Previous Change Orders \$370,000.00
 - c. Contract Sum Prior to Change Order \$7,765,000.00
 - d. Requested Change \$292,200.00
 - e. Net Change (No. of days) _____
 - f. New Contract Amount \$8,057,200.00
6. Contact Person: Hans Medlarz, P.E.
Telephone No. (302) 855-7718

B. REASON FOR CHANGE ORDER (CHECK ONE)

1. Differing Site Conditions
2. Errors and Omissions in Construction Drawings and Specifications
3. Changes Instituted by Regulatory Requirements
4. Design Change
5. Overrun/Underrun in Quantity

- 6. Factors Affecting Time of Completion
- 7. Other (explain below):

C. BRIEF DESCRIPTION OF CHANGE ORDER:
Emergency work and additional Airport work.

D. JUSTIFICATION FOR CHANGE ORDER INCLUDED?

Yes No

E. APPROVALS

1. George & Lynch, Inc., Contractor

Signature Date

Representative's Name in Block Letters

2. Sussex County Engineer

Signature Date

3. Sussex County Council President

Signature Date

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Sussex County
DELAWARE
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Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Irwin G. Burton III, Vice President
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Samuel R. Wilson, Jr.

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 7, 2019

RE: County Council Old Business Report for CU 2183 Brent & Lisa Hershey

County Council held a public hearing on September 24, 2019. County Council deferred action for the Planning Commission recommendation. The Planning Commission recommended partial approval of the application at their meeting of September 26, 2019. The record was open for five (5) days after the Planning Commission recommendation. There were no written comments submitted regarding the Planning Commission recommendation. The record was closed on October 8, 2019.

The Planning and Zoning Department received an application (CU 2183 Brent & Lisa Hershey) for a Conditional Use for parcel 235-15.00-26.07 to allow for a storage facility with outdoor storage to be located at 14374 Clyde's Dr. The Planning and Zoning Commission held a public hearing on August 22, 2019. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meeting.

Ms. Cornwell advised the Commission that submitted into the record were a Site Plan, staff analysis, comments from the Sussex Conservation District, and the result from the DelDOT Service Level Evaluation request confirming that a Traffic Impact Study ("TIS") was not required.

That the Commission found that Mr. Brent Hershey was present on behalf of his application; that Mr. Hershey stated the property is an operating pig production farm and there are two buildings on the property that are in disrepair; that he is considering repairing the buildings; that one of the buildings is not in use at this current time; that the other building is a collapsed old dairy barn; that he is considering putting the buildings back in their original state, not improving the footprint, but adding some overhead doors; that the proposed application is to allow passive storage inside the barns; that he believed that there was an error in the legal advertisement for the application as he is not asking for any outdoor storage; that the proposed application is for indoor storage only; that Mr. Wheatley asked if the application would need to be re-advertised; which Mr. Robertson replied that it would not because this is less than what was advertised; that the Planning and Zoning Commission could also



impose a condition requiring that there be no outdoor storage; that Mr. Hershey stated that he did have a discussion with the farmers of the preserved property; that he had explained the proposed use of the buildings to Mr. Dennison and that Mr. Dennison would like to see a Building Permit application once it is applied for; that Chairman Wheatley asked if he had a chance to look into Agricultural Preservation District requirements and whether the Applicant is permitted to apply for a Conditional Use in an Agricultural Preservation District; Mr. Robertson stated he had concerns because Agricultural Preservation District requirements do not typically allow for storage of third party items, businesses or commercial use; that the Applicant can store farm equipment as long as it is associated with the farm; that Mr. Robertson understands why the Foundation would want to see the Building Permit and if the Conditional Use is granted it may be in violation of the Agricultural Preservation District requirements; and that the Planning and Zoning Commission should consider holding the record open to obtain confirmation from the Delaware Agricultural Preservation Foundation.

Ms. Stevenson asked the Applicant if he only wanted to use two of the buildings for storage; which Mr. Hershey replied yes; that Ms. Stevenson asked if the rest of the buildings would remain an active hog farm; which Mr. Hershey replied yes; Ms. Stevenson asked if someone would be living on-site; which Mr. Hershey replied yes; that Mr. Hershey also confirmed that there is a trailer on the site and he is currently in the process of building a dwelling; that once the dwelling is completed, the trailer would be removed; that the trailer needs to be removed as part of the Farm Preservation guidelines; that Ms. Stevenson asked how the storage would work; which Mr. Hershey stated there would be three units in the building on the right and there would be three or four doors in the barn; that there would be indoor storage for large vehicles; that people would be able to come and obtain the vehicles; that it could possibly be used for contractor storage or for agricultural use; that he would use part of the storage area for personal use; Ms. Stevenson asked if there would be 24-hour access to the site; which Mr. Hershey replied no; that the hours would be during the day; that there would be a porta potty and a dumpster provided on-site; that Ms. Stevenson asked what hours of operation are being requested; which Mr. Hershey stated the hours of operation are from 7:00 am to 8:00 pm; that Chairman Wheatley stated the reason for asking for specific hours of operation is because with a Conditional Use, the Planning and Zoning Commission has the ability to limit the use to specific hours of operation; that Mr. Hershey then stated he would request the hours of operation be from 6:00 am to 9:00 pm; that there would be no living facilities in the buildings; that there would be no outdoor storage; that it would not be a place for congregation; that there would be no fuel stored within or outside the two buildings; that Ms. Stevenson asked if the Conditional Use was just for the two areas and that the Planning and Zoning Commission could just limit the condition to the two buildings; which Mr. Hershey replied yes; that Ms. Stevenson stated that if he wanted to have storage in the other buildings, he would have to apply for another Conditional Use; that Mr. Hershey stated he understood the process; that it is a 1,500 sow farm and a birthing farm; that Ms. Stevenson asked if he would like a sign; and which Mr. Hershey replied a sign was not being requested.

Ms. Cornwell asked if the operating hours would be Sunday through Saturday; which Mr. Hershey stated yes, it would be open all seven days of the week.

Mr. Robertson asked what the total number of units would be; which Mr. Hershey stated there would be four units with four doors.

That the Commission found that no one spoke in favor of or in opposition to the application.

At the conclusion of the public hearing, the Commission discussed this application.

Mr. Robertson stated the Planning and Zoning Commission should leave the record open for verification from the Delaware Agricultural Preservation Foundation if the use sought is permitted.

Motion by Ms. Stevenson, seconded by Mr. Hopkins and carried unanimously to leave the record open for clarification as to whether the use is permitted in the Agricultural Preservation District. Motion carried 5-0.

At their meeting of September 26, 2019, the Planning Commission discussed the application which had been deferred since August 22, 2019.

Ms. Stevenson moved that the Planning Commission recommend a partial approval of C/U 2183 for BRENT AND LISA HERSHEY to operate a storage facility with outdoor storage based upon the record made at the public hearing and for the following reasons:

1. The property is located within an Agricultural Preservation District (“APD”). The Applicant is seeking to use an existing but out-of-service agricultural building for storage of equipment owned by others. The Applicant also seeks approval to reconstruct a collapsed barn for use as a building for equipment owned by others.
2. In an APD, Title 3, Section 909(g) of the Delaware Code allows buildings that are no longer used in farming operations to “be used for the enclosed storage of property belonging to others”. The Delaware Code does not permit a collapsed or demolished building to be rebuilt and then used for this purpose.
3. By law, only the building described as “The Existing Hog Barn” can be approved for storage of equipment owned by others. The building described as “The Old Dairy Barn” may not be reconstructed and used for storage.
4. The use as a small, indoor storage facility is of a public or semi-public character and is desirable for the general convenience and welfare of neighboring properties and uses in the area. It is also the adaptive re-use of an existing structure that is no longer used in farming operations.
5. The use is to be located along Route 16, which is an arterial road. This is an appropriate location for this small operation.
6. There is a need for convenient locations for small contractors and subcontractors to store equipment in this part of Sussex County.
7. This type of small storage facility generates a relatively minor amount of traffic. It will not adversely affect traffic on area roadways.
8. The limited approval of this Conditional Use, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
9. No parties appeared in opposition to this application.
10. This recommendation for approval is subject to the following conditions and stipulations:
 - A. There shall not be any outside storage on the premises. This includes the prohibition against outside storage of building materials, construction materials, boats and RVs within the site.
 - B. The storage shall be limited to the structure that is identified as “The Existing Hog Barn” which is no longer used in farming operations. The collapsed dairy barn may not be rebuilt and used for storage purposes.
 - C. As stated by the Applicant, no sign shall be permitted.

- D. The site shall be posted with hours of operation limited to 6:00 am until 9:00 pm, 7 days per week.
- E. Any violations of the conditions of approval of this Conditional Use may result in the termination of this Conditional Use.
- F. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission.

Motion by Ms. Stevenson, seconded by Ms. Wingate and carried unanimously to forward this application to the Sussex County Council with a recommendation the application be approved for the reasons and the conditions stated in the motion. Motion carried 5-0.

Introduced 05/14/19

**Council District No. 3 - Burton
Tax I.D. No. 235-15.00-26.07
911 Address: 14374 Clyde's Drive, Milton**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE FACILITY WITH OUTDOOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 9.167 ACRES, MORE OR LESS

WHEREAS, on the 23rd day of April 2019, a conditional use application, denominated Conditional Use No. 2183, was filed on behalf of Brent & Lisa Hershey; and

WHEREAS, on the ____ day of _____ 2019, 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. 2183 be _____; and

WHEREAS, on the ____ day of _____ 2019, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County 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. 2183 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 Broadkill Hundred, Sussex County, Delaware, and lying on the south side of Broadkill Road (Route 16), approximately 0.33 mile west of Reynolds Road and being more particularly described in the attached legal description prepared by Hudson, Jones, Jaywork & Fisher, said parcel containing 9.167 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.

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Sussex County

DELAWARE
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Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Irwin G. Burton III, Vice President
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Samuel R. Wilson, Jr.

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 7, 2019

RE: County Council Old Business Report for CU 2184 Linda Ann Yupco-Connors

County Council held a public hearing on September 24, 2019. County Council deferred action for the Planning Commission recommendation. The Planning Commission recommended denial of the application at their meeting of September 26, 2019. The record was open for five (5) days after the Planning Commission recommendation. There were no written comments submitted regarding the Planning Commission recommendation. The record closed on October 8, 2019.

The Planning and Zoning Department received an application (CU 2184 Linda Ann Yupco-Connors) for a Conditional Use for parcel 334-11.00-15.00 to allow for equipment storage to be located at 32260 Jimtown Rd. The Planning and Zoning Commission held a public hearing on August 22, 2019. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meeting.

Ms. Cornwell advised the Commission that submitted into the record were a Site Plan, staff analysis, comments from the Sussex Conservation District, and the results from the DelDOT Service Level Evaluation request confirming that a Traffic Impact Study ("TIS") was not required.

That the Commission found that Mr. Larry Fifer, an Attorney, Ms. Linda Connors, the Applicant and Mr. Sam Connors, the Applicant's son, and Mr. Kevin Smith, with Kercher Associates were present on behalf of the application; that Mr. Fifer stated the Applicant would like to utilize the property as a business, that there is an existing office on the site and it was previously used as a residence; that the Applicant would like to use the house as an office; that the Applicant would like to use the building that is located in the rear of the property for equipment storage; that the Applicant's business is general contracting and snow removal; that the equipment would be taken out during the day and stored at the site during the evening; that the impact on traffic is negligible; that there would be no signage on the site; that there would be no materials stored at the site; that there are seven other business uses in the area; that some of the uses in the area include a lawn care business, tax accounting office,



transportation or roll-off business, and a daycare center; that Ms. Stevenson asked if the request of the Applicant is to be able to park the vehicles at the site and not for an office; which Mr. Fifer stated the Applicant would like to use the existing house as an office for the business; that Mr. Robertson stated that this could raise a legal notice issue; that Ms. Stevenson asked if it would be part of the same business and not renting the office separately; that Mr. Fifer stated the office would be used for the same business; that Chairman Wheatley stated the application was for equipment storage; that the Applicant presented it as including a snow removal contracting business which includes equipment storage; that he asked for clarification as to what the Applicant is requesting; that Mr. Fifer stated the Applicant is proposing the change from a previously residential use to a commercial use and therefore is a valid request for Conditional Use in this Zoning District; that Chairman Wheatley stated it was advertised for one use and it appears to be presented as something else; that Mr. Fifer stated it is for the owner to store equipment that is used for their business and it would be desirable to have an office in connection for the same business; that this is the request for the application; that Ms. Stevenson asked if the Applicant wants a sign, which Mr. Fifer said no; that Ms. Stevenson asked what hours of operation are being requested; which Mr. Fifer stated the hours of operation would be 7:00 am to 6:00 pm; that Ms. Stevenson asked if 7:00 am is when the staff would show up on the property; which Mr. Fifer replied yes; that Ms. Stevenson asked how many vehicles there would be at the site and would they be stored inside; which Mr. Connors stated there would be two to four vehicles; that one of the vehicles would be for the secretary and a couple for picking up the trucks; that there would not be any continuous traffic; that the materials would be delivered to the job site and not the application site; Ms. Stevenson asked if customers would be coming to the site; which Mr. Connors replied no; that Ms. Stevenson asked about the storage of vehicles; which Mr. Connors stated everything would be stored inside the building; that Ms. Stevenson asked how many employees would be on-site; which Mr. Connors stated there would be two to four employees; Ms. Stevenson asked if one of the employees would be in the office; which Mr. Connors stated that there would one part-time employee in the office; that Mr. Hopkins asked the Applicant if he has outgrown his current location; which Mr. Connors replied yes and that mainly the plow trucks and a mechanic truck would be stored at the site; that Mr. Hopkins asked if the Mechanic would be undertaking repairs at the site; which Mr. Connors replied no and there would be no storage of fuel on the site; that all the repairs would be sent out to be worked on; that Mr. Hopkins asked if this would be a contractor's type of use where workers would be in and out throughout the day or whether it would only be used when it is snowing; that Mr. Hopkins also asked whether the equipment would have back-up alarms; which Mr. Connors stated the vehicles do not have back-up alarms; that Mr. Hopkins asked if trucks and or skid steers are used for snow removal; which Mr. Connors stated it would only be snow plow trucks; that the Applicant did complete a Traffic Impact Study ("TIS") and it stated there would be 13 trips per day; that Mr. Hopkins asked if there were any materials stored on the site; which Mr. Connors stated the employees would only be picking up the trucks and there would be no materials stored on the site; that Mr. Smith stated the total number of calculated trips is 13 trips and a standard residential home has an average of 10 trips; that the application that was submitted had conflicting information on the Site Plan compared to the actual application; that the Service Level Evaluation ("SLER") stated it was for an office/storage and the Site Plan stated it was an existing office; that technically it is an existing residence and not an office; that the request was for equipment storage which was applied for, and for the office; Ms. Cornwell asked what days of the week would the business be operating; which Mr. Connors stated it would be Monday through Saturday with the exception of snow.

That the Commission found that no one spoke in favor of the application.

That the Commission found that Reverend Wendel Hall and Mr. Gerald Allen spoke in opposition to the application; that Reverend Hall stated he was raised on Jimtown Road; that he thought the application was for heavy equipment storage; that they had been upgrading the community to be like Coastal Club; that the proposed business is not keeping with what they want for the neighborhood; that he is okay with the business if it was at Mr. Connors' current property; that he had concerns with it growing into something else; that he wants the property to remain residential; that Mr. Allen stated the Connors' have been good neighbors; that he had concerns with traffic; that he would like the site to remain a residential community; and that he supports the Connors but not the application for a conditional use.

At the conclusion of the public hearing, the Commission discussed this application.

Mr. Robertson referenced back to the comment about Coastal Club and the controversy regarding the installation of sidewalks and sewer within Jimtown; that there were people in favor of this because it improved Jimtown Road and the properties; that there were also people concerned about it because it changed the small rural character of Jimtown Road; that it was a small community on a country road; that the people in Jimtown had a concern with maintaining the community feel of Jimtown; that Chairman Wheatley stated that the Coastal Club is not the only thing that has impacted Jimtown; that the residents stated that they want to maintain a small community feel to the area; that he had concerns with the compact size of the lot; that Mr. Robertson stated, based on the information from the Applicant's representative and reference to equipment storage; that he had some concerns about whether the application was advertised correctly; that Chairman Wheatley stated the issue is what is being applied for; that the previous storage application was for storage with no business being operated there and no office; that it depends if this is just for storage or places he could rent out; that if he were not renting the units, he would not have to apply for a Conditional Use; that the request for this site is to operate a business; Ms. Stevenson commented that, if the Applicant was living at the site and if he wished to park his trucks in the back, that this would be a different matter; ; that Chairman Wheatley stated the Applicant had labeled the house as an office; that Ms. Wingate stated the Applicant indicated that there would be a proposed office; that Chairman Wheatley commented it is the Applicant's intention to use the house as an office.

Motion by Ms. Stevenson, seconded by Wingate and carried unanimously to defer action for further consideration. Motion carried 5-0.

At their meeting of September 26, 2019, the Planning Commission discussed the application which had been deferred since August 22, 2019.

Ms. Stevenson moved that the Planning Commission recommend denial of CU 2184 for LINDA ANN YUPCO-CONNORS for a Conditional Use for equipment storage based upon the record and for the following reasons:

1. This application is for a conditional use for equipment storage on land that is zoned AR-1.
2. While the Applicant is seeking approval of equipment storage, the record suggested that there would be a contracting business operating from the site that required equipment storage as part of that use. Neither of these uses are compatible with the residential character of Jimtown.

3. The site is within the Jimtown community that has historically been a residential community with single family homes. While there are some businesses along Jimtown Road, they are primarily home-occupation-type small businesses.
4. There was opposition from the owners and residents of neighboring properties within Jimtown that the use would be inconsistent with the residential nature of the neighborhood.
5. There was testimony from neighbors opposing the application that it would adversely affect the use and enjoyment of their properties as a result of the additional traffic coming to and from the property by employees and the noise and traffic generated by the vehicles and equipment on the site.
6. There are other more appropriate locations for this use that are not within a residential neighborhood and where the proposed use would be more consistent with the surrounding area.
7. For all of these reasons, this conditional use application should be denied.

Motion by Ms. Stevenson, seconded by Mr. Mears and carried unanimously to forward this application to the Sussex County Council with a recommendation the application be denied for the reasons stated in the motion. Motion carried 5-0.

Introduced 05/21/19

**Council District No. 3 – Burton
Tax I.D. No. 334-11.00-15.00
911 Address: 32260 Jimtown Road, Lewes**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.91 ACRE, MORE OR LESS

WHEREAS, on the 7th day of May 2019, a conditional use application, denominated Conditional Use No. 2184, was filed on behalf of Linda Ann Yupco-Connors; and

WHEREAS, on the ____ day of _____ 2019, 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. 2184 be _____; and

WHEREAS, on the ____ day of _____ 2019, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County 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 VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2184 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the west side of Jimtown Road, approximately 0.32 mile south of Beaver Dam Road, and being more particularly described in the attached legal description prepared by Draper & Goldberg, P.L.L.C., said parcel containing 0.91 acre, 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.

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Sussex County

DELAWARE
sussexcountyde.gov

Memorandum

To: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Irwin G. Burton III, Vice President
The Honorable Douglas B. Hudson
The Honorable John L. Rieley
The Honorable Samuel R. Wilson, Jr.

From: Janelle Cornwell, AICP, Planning & Zoning Director

CC: Everett Moore, County Attorney

Date: November 7, 2019

RE: County Council Old Business Report for CU 2187 Daniel Ostinvil

County Council held a public hearing on September 24, 2019. County Council deferred action for the Planning Commission recommendation. The Planning Commission recommended denial of the application at their meeting of September 26, 2019. The record was open for five (5) days after the Planning Commission recommendation. There were no written comments submitted regarding the Planning Commission recommendation. The record was closed on October 8, 2019.

The Planning and Zoning Department received an application (CU 2187 Daniel Ostinvil) for a Conditional Use for parcel 232-12.18-51.00 to allow for motor vehicle sales to be located at 310196 North Poplar St. The Planning and Zoning Commission held a public hearing on August 22, 2019. The following are the draft minutes for the Conditional Use from the Planning and Zoning Commission meeting.

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, comments from the Sussex Conservation District, and the results from the DelDOT Service Level Evaluation request confirming that a Traffic Impact Study ("TIS") was not required.

That the Commission found that Mr. Daniel Ostinvil was present on behalf of his application; that Mr. Ostinvil stated he had purchased the property; that the property was used as a commercial property for furniture sales; that the property was muddy and he had put down stone; that there are other commercial uses in the area; that the proposed application is to be able to sell cars; that Ms. Wingate asked the Applicant how many vehicles be parked at the site; which Mr. Ostinvil replied there would be four or five vehicles parked at the site for sale; that Ms. Wingate asked if the existing building is to remain on the site for the use of an office; which Mr. Ostinvil replied the existing building would remain and he would use the building as an office; that Ms. Wingate asked what would the hours of operation be; which Mr. Ostinvil replied the hours of operation would be 9:30 am to 3:30 pm, Monday through Friday; that Ms. Wingate asked if there would be any Saturday or Sunday hours of operation;



which Mr. Ostinvil replied that there may be some Saturday hours from 11:00 am to 2:30 pm; that Ms. Wingate asked if he would like a sign on the property to advertise his business; which Mr. Ostinvil replied yes; that Ms. Wingate asked if he would like the sign to be lighted; which Mr. Ostinvil replied yes; that Ms. Wingate asked how many employees he would have; and which Mr. Ostinvil replied he would have two employees.

Ms. Stevenson asked if he would be selling cars and whether he would be fixing the cars at the site; which Mr. Ostinvil replied there would be no fixing of the cars at the site; Ms. Stevenson asked if the site would be just to sell the cars and nothing extra going on at the site; to which Mr. Ostinvil replied no he would not be fixing cars only selling them.

Chairman Wheatley asked about the existing building that has a barbeque sign on it and if that is what the Applicant had been doing at the site; which Mr. Ostinvil replied yes, he had been using it as a Barbeque and would like to continue to use it as such; that Chairman Wheatley asked if there is a Conditional Use on the property now; which Ms. Cornwell stated she is not aware of any Conditional Uses on the property; that Chairman Wheatley stated he can verify based on his own observations of the site that the site had been used as commercial use for a long time; that Chairman Wheatley stated the application was for motor vehicle sales and the Planning and Zoning Commission cannot add any additional uses to the application; that if the Applicant would like additional uses on the site, he would have to talk with Ms. Cornwell about applying for the other uses. When asked if the cars would be parked along the split rail fence Mr. Ostinvil replied that they would.

The Commission found that no one spoke in favor of or in opposition to the application.

At the conclusion of the public hearing, the Commission discussed this application.

Ms. Stevenson asked if the barbeque is non-conforming and whether the Applicant would have to submit an application for the this activity; that Ms. Cornwell stated the practice of Planning and Zoning Department is typically not to shut a business down while an Applicant is going through the Conditional Use process; and that Chairman Wheatley stated it may have been a communication issue and the fee may be waived if the circumstances warranted it.

Motion by Ms. Wingate, seconded by Mr. Hopkins and carried unanimously to defer action for further consideration. Motion carried 5-0.

At their meeting of September 26, 2019, the Planning Commission discussed the application which had been deferred since August 22, 2019.

Ms. Wingate moved that the Planning Commission recommend approval of C/U 2187 for DANIEL OSTINVIL for Motor Vehicle Sales based upon the record made at the public hearing and for the following reasons:

1. This site has had a variety of different business uses over the years.
2. There are other small business and commercial uses in the area. This use is consistent with the area and will not have an adverse effect on it.
3. A car sales facility at this location is of a public or semi-public character and is desirable for the general convenience and welfare of the area.

4. Given the small size of this site, parking in the front yard setback is permitted, provided that all parking shall be contained within a fenced in area.
5. No parties appeared in opposition to this application.
6. This recommendation for approval is subject to the following conditions and stipulations:
 - A. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
 - B. Security lighting shall be downward screened and shall be directed away from neighboring properties and roadways.
 - C. No junked, unregistered or permanently inoperable vehicles or trailers shall be stored on the site.
 - D. The site shall be subject to all DelDOT entrance and roadway requirements.
 - E. The cars shall be parked within fenced area, and the fence and parking area shall be shown on the Final Site Plan.
 - F. The automotive sales hours shall only be from 9:00 am through 3:30 pm, Monday through Friday, and 9:00 am until 2:30 pm on Saturdays. There shall not be any Sunday hours.
 - G. Any violations of the conditions of approval of this Conditional Use may result in the termination of this Conditional Use.
 - H. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Ms. Wingate, seconded by Ms. Stevenson and carried unanimously to forward this application to the Sussex County Council with a recommendation the application be approved for the reasons stated in the motion. Motion carried 5-0.

Introduced 05/21/19

**Council District No. 1 – Vincent
Tax I.D. No. 232-12.18-51.00
911 Address: 31016 North Poplar Street, Laurel**

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MOTOR VEHICLE SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.1657 ACRE, MORE OR LESS

WHEREAS, on the 13th day of May 2019, a conditional use application, denominated Conditional Use No. 2187, was filed on behalf of Daniel Ostinvil; and

WHEREAS, on the ____ day of _____ 2019, 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. 2187 be _____; and

WHEREAS, on the ____ day of _____ 2019, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County 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.

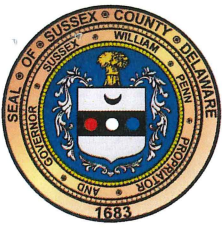
NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2187 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 southwest corner of North Poplar Street and Old Sailor Road, and being more particularly described in the attached legal description prepared by Rodney D. Sweet, Esq., said parcel containing 0.1657 acre, 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.



SUSSEX COUNTY GOVERNMENT

GRANT APPLICATION

SECTION 1 APPLICANT INFORMATION

ORGANIZATION NAME: Good Samaritan Aid Organization Inc.

PROJECT NAME: Annual Christmas Outreach for Needy Families

FEDERAL TAX ID: 51-0303717 NON-PROFIT: YES NO

DOES YOUR ORGANIZATION OR ITS PARENT ORGANIZATION HAVE A RELIGIOUS AFFILIATION?

YES NO *IF YES, FILL OUT SECTION 3B.

ORGANIZATION'S MISSION: Good Samaritan Aid Organization (Good Sam) is committed to providing financial assistance and clothing/food to those families in the Laurel DE and Delmar DE communities who are less advantaged.

ADDRESS: 115 W Market Street
P O Box 643
Laurel DE 19956
(CITY) (STATE) (ZIP)

CONTACT PERSON: Melinda Tingle

TITLE: President

PHONE: 302/875-0355 EMAIL: mtingle57@comcast.net

TOTAL FUNDING REQUEST: 1000.00

Has your organization received other grant funds from Sussex County Government in the last year? YES NO

If YES, how much was received in the last 12 months? \$1000

If you are asking for funding for building or building improvements, do you own the building in which the funding will be used for? YES NO

Are you seeking other sources of funding other than Sussex County Council? YES NO

If YES, approximately what percentage of the project's funding does the Council grant represent? 20%

SECTION 2: PROGRAM DESCRIPTION

PROGRAM CATEGORY (choose all that apply)

- | | | |
|--|---|--------------------------------------|
| <input type="checkbox"/> Fair Housing | <input checked="" type="checkbox"/> Health and Human Services | <input type="checkbox"/> Cultural |
| <input type="checkbox"/> Infrastructure ¹ | <input checked="" type="checkbox"/> Other <u>Food/Clothing/Christmas Gift assistance for kids</u> | <input type="checkbox"/> Educational |

BENEFICIARY CATEGORY

- | | | |
|---|---|--|
| <input type="checkbox"/> Disability & Special Needs | <input type="checkbox"/> Victims of Domestic Violence | <input checked="" type="checkbox"/> Homeless |
| <input checked="" type="checkbox"/> Elderly Persons | <input checked="" type="checkbox"/> Low to Moderate Income ² | <input type="checkbox"/> Youth |
| <input type="checkbox"/> Minority | <input type="checkbox"/> Other _____ | |

BENEFICIARY NUMBER

Approximately the total number of Sussex County Beneficiaries served annually by this program:

750 +

SECTION 3: PROGRAM SCOPE

- A. Briefly describe the program for which funds are being requested. The narrative should include the need or problem to be addressed in relation to the population to be served or the area to benefit.

The largest outreach conducted by Good Sam during the year is the annual Christmas Basket program. Referral applications for the program are accepted from Laurel School District (primarily school nurses), Telamon Laurel, State of DE Social Services, local civic organizations and local churches. The primary focus of the program is providing Christmas gifts to financially disadvantaged children in the Laurel community to ensure they are able to enjoy the gifts of Christmas available to other children. Additionally, food baskets are distributed to all families that apply for the program and the basket includes a minimum of \$50 gift card to Food Lion. We will service over 200 families (750+ individuals) with the outreach. This outreach is well established and has operated for over 20 years. Donations of toys are made by generous individuals and churches throughout the Laurel Community and monetary donations are used to purchase additional gift items for the children to receive on Christmas Eve. Food baskets and gift items for the children are distributed by volunteers on Christmas Eve morning.

B. IF RELIGIOUS AFFILIATION WAS CONFIRMED ABOVE IN SECTION 1, PLEASE FILL OUT THE FOLLOWING SECTION. IF RELIGIOUS AFFILIATION WAS NOT CHECKED IN SECTION 1, THIS SECTION MAY BE LEFT BLANK.

A faith-based nonprofit organization is eligible to receive and apply for a grant on the same basis as other nonprofit organizations, with respect to programs which are eligible. In the selection of grantees, the County will not discriminate for or against an organization on the basis of the organization's religious characterization or affiliation. However, certain requests to utilize funding for programs with religious purposes may not be eligible due to constitutional principles of the United States and/or the State of Delaware.

Briefly describe the components of the program that involve religious purposes and the components that involve secular purposes, or non-religious purposes. If both non-religious and religious purposes are involved in the program, this narrative must include the specific actions that will be implemented in order to ensure that the funding is solely used for non-religious purposes and will not be used to advance or inhibit religious or faith-based activities.

After the awarded funds have been made, receipts of the non-religious purchases shall be submitted in accordance with Section 5 below before funds will be disbursed.

SECTION 4: BUDGET

REVENUE	
Please enter the current support your organization receives for this project (not entire organization revenue if not applicable to request)	
TOTAL REVENUES	5,000.00
EXPENDITURES	
Please enter the total projected budget for the project (not entire organization expense if not applicable to request). Example of expenditure items: PERSONNEL-one lump sum that would include benefits, OPERATING COSTS-supplies, equipment, rent/lease, insurance, printing telephone, CONSTRUCTION/ACQUISITION-acquisition, development, rehab hard cost, physical inspections, architectural engineering, permits and fees, insurance, appraisal. (Put amounts in as a negative)	
Toy Purchases	-\$ 1,000.00
Food Lion gift card purchases	-\$ 11,000.00
TOTAL EXPENDITURES	-\$ 12,000.00
TOTAL DEFICIT FOR PROJECT OR ORGANIZATION	-\$ 7,000.00

SECTION 5: STATEMENT OF ASSURANCES

If this grant application is awarded funding, the Good Samaritan Aid Organization Inc. agrees that:
(Name of Organization)

- 1) For non-religious organizations, all expenditures must have adequate documentation and must be expended within one (1) year of receipt of award funds. The funding awarded to the organization must be used in substantial conformity with the anticipated expenditures set forth in the submitted application. All accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.
- 2) For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before the funding is released.
- 3) No person, on the basis of race, color, or national origin, should be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under the program or activity funded in whole or in part by these Grant funds.

SECTION 5: STATEMENT OF ASSURANCES (continued)

- 4) All information and statements in this application are accurate and complete to the best of my information and belief.
- 5) All funding will benefit only Sussex County residents.
- 6) All documents submitted by the applicant are defined as public documents and available for review under the Freedom of Information Act of the State of Delaware.
- 7) All funding will be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious purposes.
- 8) **In the event that the awarded funding is used in violation of the requirements of this grant, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.**

Melinda R. Trigg

Applicant/Authorized Official Signature

11/1/19

Date

Bruce Dumas

Witness Signature

11/1/19

Date

Completed application can be submitted by:

Email: gjennings@sussexcountyde.gov

Mail: Sussex County Government
Attention: Gina Jennings
PO Box 589
Georgetown, DE 19947

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SUSSEX COUNTY COUNCIL NON-PROFIT GRANT PROGRAM
GUIDELINES FOR SUBMITTAL AND AFFIDAVIT OF UNDERSTANDING

The Sussex County Council makes available a limited amount of funding to non-profit organizations that serve the citizens of Sussex County. Each application for funding shall be evaluated by Sussex County administrative staff and shall be subject to final approval from Sussex County Council.

In the attached application, each organization must outline its intended uses for the awarded funding and provide a detailed breakdown of the expenses and costs for such uses. Any funding awarded to the organization must be used in substantial conformity with anticipated expenditures of the submitted application.

All expenditures must have adequate documentation and must be expended within one (1) year of award of funds.

For non-religious organizations, all accounting records and supporting documentation shall be available for inspection by Sussex County within thirty (30) days after the organization's expenditure of the awarded funding, or within one year after the receipt of the awarded funds, whichever first occurs.

For religious organizations, all accounting records and supporting documentation shall be provided for inspection by Sussex County after the award has been made by County Council but before funding is released. Grant is relinquished if supporting documentation is not provided within one year of County Council award.

Certain programs are not eligible for funding pursuant to United States Constitution and State of Delaware Constitution. Those constitutional principles prohibit the use of funding to advance or inhibit religious activities. By signing below, the organization acknowledges that the funding shall be used exclusively for secular purposes, i.e., non-religious purposes and shall not be used to advance or inhibit religious activities.

In the event that such funding is used in violation of the requirements and assurances contained in this grant application, the awarded funding shall be reimbursed to Sussex County within a timeframe designated by Sussex County by written notice.

I acknowledge and represent on behalf of the applicant organization that I have read and understand the above statements.

Muanda R. Single
Applicant/Authorized Official Signature

President
Title

[Signature]
Witness Signature

11/1/19
Date

Vincent
11-04-19
Rev. 02/2019