

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 19, 2024

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 19, 2024, at 10:00 a.m., in Council Chambers, with the following present:

Michael H. Vincent	President
John L. Rieley	Vice President
Cynthia C. Green	Councilwoman
Douglas B. Hudson	Councilman
Mark G. Schaeffer	Councilman
Todd F. Lawson	County Administrator
Gina Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 146 24
Approve
Agenda**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, to approve the Agenda, as presented.

Motion Adopted: 5 Yeas

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

Minutes

The minutes from March 12, 2024, were approved by consensus.

Correspond.

Mr. Moore reported that there was no correspondence.

Comments

There were no public comments.

Recognition

Joe Thomas was recognized for his upcoming retirement.

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report

The Delaware State police year-to-date activity report for February 2024 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 190 troopers assigned to Sussex County for

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

the month of February.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Winward Village effective March 6th and Millville by the Sea – Tupelo Sands (formerly known as Roxana) effective March 7th.

3. Holiday and Council Meeting Schedule

A reminder that County offices will be closed on Friday, March 29th, to observe the Good Friday holiday. In addition, Council will not meet on Tuesday, March 26th or Tuesday, April 2nd. The next regularly scheduled Council meeting will be on Tuesday, April 9th at 10:00 a.m.

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

**MOU/Dog
Control**

Gina Jennings, Finance Director reported that the County Council signed a Memorandum of Understanding (MOU) in December 2015 that transferred the County's authority of dog control to the Office of Animal Welfare beginning in 2016. The State of Delaware's authority of dog control was later formalized in Delaware Code in 2017, which moved the responsibility of dog control from Title 9 to Title 16. In 2021, the State of Delaware and the three counties signed a three-year Dog Control MOU. The MOU will expire in June. The State is proposing another three-year MOU, the pricing structure is still based on per capital distribution among the three counties and the City of Wilmington. Mrs. Jennings noted that the other two Counties and the City of Wilmington have approved their MOUs.

Mrs. Jennings explained that the difference between the 2021 MOU and the new MOU is the allocation among the three Counties. The allocation is based on 2022's population rather than 2019's population. There is also a three percent escalation each of the next two years. The current cost of the County's MOU is \$887,901. The proposed cost for FY 2025 will be \$1,046,174, a \$158,273 increase.

Christina Motoyoshi, Executive Director, and Chief Mark Tobin of the Office of Animal Welfare provided a presentation on the services that they provide the County under this MOU.

**M 147 24
Approve
MOU**

A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved that the Sussex County Council approve the MOU with the State of Delaware to enforce Delaware dog control and dangerous dog statutes as presented.

Motion Adopted: 5 Yeas

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

**ARPA
Update/
Recommen-
dation**

Mrs. Jennings, Finance Director provided an update of the American Rescue Plan Act Grant. Mrs. Jennings reminded Council that she has been before them twice before with previous updates.

Mrs. Jennings explained that the funds need to be committed by December 31st this year. Mrs. Jennings explained that the dollar amounts have shifted but the categories have always stayed the same since the beginning. Mrs. Jennings reviewed what has been spent to date and the successes that have occurred. Therefore, she is recommending reallocating funds to some of the successful low-income partnerships and Cares Act programs. In addition, she is recommending granting \$750,000 of the ARPA funds to the Food Bank specifically for food purchases. Mrs. Jennings is also recommending continuing with the housing sustainability assistance program of \$150,000. She explained that it helps continue those partnerships that have already been created with the CARES act, community resource center and First State Community Action Agency.

**M 148 24
Approve
ARPA
Recommen-
dation**

A Motion was made by Mr. Schaeffer, seconded by Mr. Rieley, that be it moved that the Sussex County Council agree to enter into a grant agreement with the Food Bank to provide \$750,000 of ARPA funds to purchase food.

Motion Adopted: 5 Yeas

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

**Stop-Loss
Insurance
Coverage**

Karen Brewington, Human Resources Director presented a recommendation for Stop-Loss insurance coverage for Council's consideration. Mrs. Brewington reported that stop-loss coverage insurance also known as excess insurance provides protection for self-insured employers by serving as a reimbursement mechanism for catastrophic claims exceeding pre-determined levels. Our current annual specific deductible is \$295k.

Insurance Buyers Council (IBC) completed an RFQ with our current Stop Loss vendor, Highmark. IBC was able to negotiate a reduction in the original renewal from 12.49% to 8.98% and reported a very favorable renewal in the context of medical stop loss policies. Mrs. Brewington reported that it is IBC's recommendation to accept Highmark's renewal and maintain the current specific deductible of \$295k per claim with a \$100,000 deductible.

Stop-Loss Insurance Coverage

In addition, Mrs. Brewington discussed the renewal proposal for The Hartford Insurance. They are both the County's current vendor for providing Basic & Supplemental Life Insurance, Accident, Death & Dismemberment and Short- & Long-Term Disability. The 2024 renewal proposal comes with a 0% increase in premiums, there has not been a rate increase since 2021. IBC and HR's recommendation is to renew the existing contract with the option to extend on a year-to-year basis.

M 149 24 Approve Stop-Loss Insurance Coverage

A Motion was made by Mr. Rieley, seconded by Mr. Schaeffer, that be it moved that the Sussex County Council renew its annual contract with Highmark for stop-loss coverage at rate per month of \$32.36 for single coverage and \$92.15 for family coverage with an annual specific deductible of \$295,000 effective May 1, 2024 and renew its contract with the Hartford Life & Disability benefits based on the existing premiums for a period of one year ending June 30, 2025 with the option to extend on a year-to-year basis.

Motion Adopted: 5 Yeas

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

Proposed Ordinance/ Perimeter Buffer

Vince Roberston, Assistant County Attorney discussed a Proposed Ordinance related to Perimeter Buffers. Mr. Robertson stated that it pulls the buffer requirements out of the definition section of the subdivision Ordinance and puts them in a new section within the subdivision Ordinance. It also consolidates them as one set of standards for all buffers whether it is a regular or cluster subdivision. In addition, it is more specific on the planning requirements and what to do if you a situation where the buffer area is currently wooded vs. a buffer area that is currently farmed with the goal being to preserve the woodlands in that buffer area. It also improves the timing and schedule of the buffer planting.

Mr. Whitehouse pointed out that it applies to subdivisions and RPC's but it can apply to residential conditional uses.

Proposed Ordinance Introduction

Mr. Rieley introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV, V AND VI SECTIONS 99-5, 99-6, 99-23, 99-26, 99-27, 99-30, 99-31 AND 99-32 AND BY ADDING A NEW SECTION 99-21A, AND CHAPTER 115, ARTICLES IV, V, VI, VII, VIII AND XXVIII SECTIONS 115-20, 115-25, 115-29, 15-37, 115-45, 115-53 AND 115-28 REGARDING PERIMETER BUFFERS AROUND RESIDENTIAL DEVELOPMENT".

Proposed Ordinance/ ADU

Jamie Whitehouse, Planning & Zoning Director presented recommendations for accessory dwelling units. Mr. Whitehouse explained that the Ordinance replaces the definition of garage/studio apartment. The new definition for an ADU would be "a self-contained dwelling unit that is

Proposed Ordinance/ADU (continued) secondary to the principal dwelling unit on a property and includes independent living facilities, such as a separate entrance, bathroom, and kitchen. The dwelling unit may be attached to, or detached from, the primary dwelling on the property. Accessory dwelling units do not include duplexes, tourist homes, servant quarters, or guest homes”. In addition, the Proposed Ordinance would make a ADU a permitted use on a property in the residential zoning district subject to 6 criteria’s that were listed.

Proposed Ordinance Introduction Mr. Rieley introduced a Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 110, ARTICLE III, SECTIONS 110-9 AND CHAPTER 115, ARTICLES I, IV, V, VI, VII, VIII, IX, AND XXVII SECTIONS 115-4, 115-20, 115-23, 115-29, 115-32, 115-40, 115-48, 115-53, 115-56, 115-64, AND 115-210 REGARDING ACCESSORY DWELLING UNITS”.

Request for Approval/Piney Neck RWF Mike Harmer, County Engineer presented a request to approve progressive design – build approvals for Piney Neck Regional Wastewater Facility for Council’s consideration.

M 150 24 Approve Piney Neck/ Progressive Design-Build Approach A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that be it moved based upon the recommendation of the Sussex County Engineering Department that County Council authorizes the County Engineer to develop a 2-step quality based selection request for proposals to establish a design build contract for the Piney Neck Regional Wastewater Facility Diversion Transmission System project.

Motion Adopted: 5 Yeas

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

Declare District Area/South Greenwood John Ashman, Director of Utility Planning & Design Review presented a Resolution to declare the district area for South Greenwood Area of the Sussex County Unified Sanitary Sewer district for Council’s consideration. Permission to prepare and post notices was granted by County Council on December 5, 2023. A public hearing on the boundary was held on January 23, 2024. The deadline for absentee ballots was February 29, 2024, at noon. The referendum was based solely on the absentee ballots based on the size of the boundary (2 parcels), both properties returned ballots and the vote was unanimous (2) property owners in favor and none opposed.

M 151 24 Adopt Resolution No. R 006 24 A Motion was made by Mrs. Green, seconded by Mr. Hudson, to Adopt Resolution No. R 006 24 entitled “SOUTH GREENWOOD AREA OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT DECLARED UNDER THE PROVISIONS OF TITLE 9, CHAPTER 65, OF THE DELAWARE CODE”.

Motion Adopted: 5 Yeas

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

Lagoon Solar Lease Hans Medlarz, County Engineer, Ret. presented a request for approval for lagoon solar lease agreement for Council's consideration.

M 152 24 Approve Lagoon Solar Lease Agreement A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer, that be it moved based upon the recommendation of the Sussex County Engineering Department that County Council approve the solar energy lease and easement agreement with Addendum, Memorandum of Solar Energy Lease and Easement Agreement as well as the Decommissioning Funding agreement with Noria-Chaberton JB LLC as presented.

Motion Adopted: 5 Yeas

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

Proposed Ordinance Introduction Mr. Hudson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT, A CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT, A CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND A C-3 HEAVY COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 21.11 ACRES, MORE OR LESS" filed on behalf of Sadie Properties, LLC.

The Proposed Ordinance will be advertised for a Public Hearing.

CC Member Comments Mr. Vincent congratulated Tracy Torbert, Clerk of the Council on achieving her Master Municipal Clerk certification.

M 153 24 Go Into Executive Session At 11:10 a.m., a Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to go into Executive Session for the purpose of discussing matters related to land acquisition, personnel, job applicants' qualifications & pending & potential litigation.

Motion Adopted: 5 Yeas

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

Executive Session **At 11:13 a.m., an Executive Session of the Sussex County Council was held in the Council Chambers to discuss matters related to pending & potential litigation, personnel, job applicants' qualifications & land acquisition. The Executive Session concluded at 11:40 a.m.**

M 154 24 Reconvene **At 11:43 a.m., a Motion was made by Mr. Hudson, seconded Mr. Rieley to come out of Executive Session back into Regular Session.**

Motion Adopted: 5 Yeas

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

M 155 24 Litigation 2024-A **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, that legal Counsel is authorized to sign a stipulation and proposed order of dismissal in matter 2024-A.**

Motion Adopted: 5 Yeas

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

M 156 24 Personnel/ Candidate A **A Motion was made by Mr. Schaeffer, seconded by Mr. Hudson, to authorize the County Administrator to negotiate terms of employment with Candidate A.**

Motion Adopted: 5 Yeas

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

M 157 24 Adjourn **A Motion was made by Mr. Hudson, seconded by Mr. Schaeffer to adjourn at 11:45 a.m.**

Motion Adopted: 5 Yeas

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

Respectfully submitted,

Tracy N. Torbert

Clerk of the Council

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