

**MINUTES OF THE KENT COUNTY LEVY COURT  
REGULAR BUSINESS MEETING  
KENT COUNTY ADMINISTRATIVE COMPLEX  
555 BAY ROAD, DOVER, DE  
LEVY COURT CHAMBER, ROOM 203  
Tuesday, January 26, 2010**

**Call to Order**

The Regular Business meeting of the Kent County Levy Court was called to order at 7:00 P.M. by President Banta.

**Invocation & Pledge of Allegiance**

The Invocation was led by Mr. Buckson and the Pledge of Allegiance was led by Mr. Angel.

**Moment of Silence for our Troops**

A moment of silence was observed for our Troops led by Mr. Sweeney.

**Roll Call and Determination of Quorum**

Allan F. Angel	Vice President
P. Brooks Banta	President
Harold K. Brode	Commissioner
Eric L. Buckson	Commissioner
Brad S. Eaby	Commissioner
Richard E. Ennis	Commissioner - Ennis
George W. Sweeney, Sr.	Commissioner

There are six (6), 1 absent (Ennis) Commissioners present.

#### **Additions/Deletions to Agenda**

None

#### **Adoption of the Agenda**

**M-017-10** Motion was made by Mr. Angel, seconded by Mr. Sweeney and carried by Roll Call vote 6 yeas, 1 absent (Ennis) to adopt the Agenda as presented.

#### **Consent Agenda 10-02**

Items on the agenda were discussed in committee. They are considered routine and non-controversial and will be acted upon by a single roll call vote of the Levy Court. There will be no separate discussion of these items unless a Commissioner so requests, in which event the item shall be removed from the Consent Agenda and considered separately.

*Item is from January 19, 2010 Committee Meetings:*

- Cheswold District Area Gravity Sewer Extension
- Wastewater Treatment Facility Solar Energy Project – Natural Gas Burner Purchase & Maintenance Contract
- 2009 Private Activity Volume Cap

**M-018-10** Motion was made by Mr. Brode, seconded by Mr. Sweeney and carried by Roll Call vote 6 yeas, 1 absent (Ennis) to approve Consent Agenda 10-02 as presented.

#### **Approval of Regular Business Meeting Minutes of Tuesday, January 12, 2010**

**M-019-10** Motion was made by Mr. Angel, seconded by Mr. Brode and carried by Roll Call vote 6 yeas, 1 absent (Ennis) to approve the Regular Business Meeting Minutes of Tuesday, January 12, 2010.

#### **PRESENTATIONS**

1. Tribute to Nicholas Webster for Eagle Scout Project

Ms. Tanaka read the Tribute into the minutes. When visiting Tidbury Creek Park Nicholas noticed the lack of bicycle racks. He had an idea; he needed an Eagle Scout project that would benefit the community. He was inspired to fabricate his own bicycle racks. After checking with the County's Dept. of Community Services he soon found himself in his grandfather's iron shop fabricating racks – one each for Brecknock, Big Oak and Browns Branch Parks. Levy Court

congratulates Nicholas on the completion of his Eagle Scout project and thanks him for his interest in making our county parks a better place to spend the day. They wish him the best of luck in all his scouting endeavors.

Nicholas and his mother were present and came forward. Presentation was made by Mr. Banta and Mr. Sweeney.

## 2. Friends of Historic Camden Presentation

Mr. Sweeney read some notes into the minutes giving a little history of the area around Camden. On May 1<sup>st</sup> and 2<sup>nd</sup> of this year, the Friends of Historic Camden will sponsor a tour of old mansions in the Camden area and working with the Kent County Div. of Community Services Parks Div. will include the Mifflin Mansion on that tour. Proceeds from the sale of tickets for the tour will help the Friends continue to promote Camden's historic heritage. Mrs. Ann Burke, an accomplished painter and member of the Friends has made a reputation of painting the Camden historical houses and her pieces can be seen hanging in the halls of the Camden Town Hall, DE Bay Trading, and the MidCoast Community Bank. She is present tonight with her husband, Merritt Burke, Donna Reed, VP of the Friends, Bobbi Toner, Pres. of Friends and other members and friends. Mrs. Burke has painted the Mifflin Mansion; she and the Friends will present it tonight to Kent County. Mr. Sweeney hopes it will be accepted and that it will hang proudly in our halls.

Mrs. Burke and the Friends came forward for the presentation. Ms. Toner, Pres. of Friends, gave some comments. She thanked Levy Court for allowing them to open Brecknock Park for their annual house tour and gave a little history of Camden. Camden was the hub for the underground railroad movement due to the Quaker Meeting House influence. Through this movement, many slaves were able to escape to freedom. She introduced Craig Lucik who gave some history of the home. Mr. Lucik believes the old mansion at the park is not only scenic but shows the heritage and history of the people of Kent County.

## 3. Employee of the Month for February 2010

Ms. Tanaka read Employee of the Month into the record. John A. Messina, Jr. has been selected Employee of the Month for February 2010. He is a Parks Worker I and has been with the County since Sept. 2008. Last Fall, his quick thinking protected a female park visitor from potential harm. She was being pursued in a threatening manner and John was able to direct her into a maintenance building and lock the door and call 9-1-1. John was humble about the deed and explained "it just seemed like the right thing to do". He wanted to get back to cutting grass. Congratulations to John who resides in Commissioner Banta's and Ennis' districts.

## INTRODUCTIONS

None

**7:15 P.M., PUBLIC HEARINGS**

**PETITION FOR CONDITIONAL USE REQUIRING SITE PLAN  
APPROVAL:**

**Mr. Sweeney:**

1. Application Number 7 Title: CS-10-01 Glasgow Reformed Presbyterian Church; Owner: C & W Auto Parts, Inc.; Applicant: Glasgow Reformed Presbyterian Church; Engineer: Larson Engineering Group, Inc.; Present Zoning District: BG (General Business); Present use: Multi-use Commercial Building; Proposed Use: Same with Church; Area & Location: 2.026 acres +- located on the southwest corner of U.S. Rt. 13 and Co. Rd. 105, south of Camden; Kent County Property Identification Number: NM-00-094.15-04-02.01-000

Ms. Keifer stated this Public Hearing is being conducted for the purpose of giving the citizens of Kent County the opportunity to provide testimony to the Levy Court on the item that is before them that has been referred from the Regional Planning Commission. Everyone will have an opportunity to speak. All Statements will be made from the podium at the front of the room. For the record, please give your name and address. Copies of any written statements or exhibits used during the testimony should be provided to the Clerk of the Peace for inclusion in the record for that item. The procedure will be as follows:

The president or the staff will introduce the application;

Levy Court will then receive testimony from all of those in favor;

Testimony will then be received from those in opposition;

After everyone has had an opportunity to speak, the President will declare the hearing on that application closed and the Levy Court will consider their decision. Decisions will be made this evening, by the Levy Court, based upon public testimony received this evening as well as a recommendation report submitted to the Levy Court from the Regional Planning Commission. Ms. Keifer requested that the RPC recommendation report be included as part of the permanent record for this proceeding.

Public Notice of this hearing was published in the January 10, 2010 edition of the DE State News.

Ms. Keifer gave a brief summary of the Application. The improvements are already constructed; the church moved in; they did not realize they needed the conditional use approval until they came to get a building permit for interior

renovations. This is an effort to get compliant with our Code. RPC took testimony on January 7 and at the January 14 Business Meeting unanimously recommended approval of the application per Staff recommendation including approval of the requested sidewalk waiver and modification of the tree planting requirement.

### **Public Hearing is Open on Application CS-10-01**

#### **IN FAVOR**

Andrew Collins, Larson Engineering, 910 S. Chapel St., Newark, DE 19713 – The church has been leasing the current building for four years. It is approximately 30,000 sq. ft. They came in last year for a permit to make some interior changes. They are not increasing space, just moving some walls around for a greeting area and office space. They want to comply and do what needs to be done. Due to the parking situation, there is not much room for sidewalks which is why they requested a waiver for that. He had a letter from DelDot that granted them a waiver for a sidewalk on both roads.

Mr. Eaby had comments about the sidewalk situation. He wondered if it was possible to put it closer to the road on the other side of the utilities.

Mr. Collins said there were several utilities flush with the ground that could not be seen in the slides.

Mr. Eaby then wondered if there were any sidewalks down further south and if the sidewalk was to go where the parking is, is there a place to make up the parking space anywhere else.

Mr. Collins said there were no other sidewalks and no other place for parking.

Mr. Eaby then brought out the fact that DelDot stated in a November 9 letter they would require the sidewalk at the next request for a building permit. He wondered how that gets tracked.

Ms. Keifer explained that any additional construction on the site would require a building permit. DelDot would have to sign off on the entrance so they would be notified of new construction. Depending on what was proposed, it conceivably could go through another site plan process here as well.

If it doesn't require a site plan it would be DelDot tracking it, said Mr. Eaby. He then asked why Staff had originally recommended sidewalks.

Ms. Keifer said there is a fair bit of pedestrian traffic in the area so sidewalks seemed prudent. RPC felt that since this is a tenant and it is not new construction perhaps it was not warranted or fair to require this of the church at this point.

If pedestrians are there, where do they walk, asked Mr. Eaby? Is there a path? In the Dover area you can see where they walk along 13 because you can see where it is going down to the dirt.

It is likely the same here, answered Ms. Keifer. They walk where they feel safest so will wear a path down.

Mr. Brode asked how many other businesses out there have sidewalks. None?

Ms. Keifer did not believe any of them did at this point.

Mr. Brode did not agree with the sidewalk issue.

Mr. Angel asked how many people were in the congregation.

Mr. Collins said approximately 50.

You have 60 parking spots, asked Mr. Angel? As the church grows and brings in other people, where will they park?

The requirement is not one space per parishioner, said Mr. Collins, it is one per 100 hundred sq. ft. per the Code. Right now, for the church itself, they need 31 spaces and 60 are proposed. The hours the church operates, the other businesses are not operating, other than the Paintball store so there is actually enough space there for the congregation to grow. I believe if they get too much bigger, they will look for a different location.

Mr. Buckson wanted to verify that Staff is Ok with the waiver for the sidewalks and with the modification of the tree plantings. He asked if DelDot had the opportunity to recommend sidewalks at Wal-Mart and if so was that denied or is there a current condition on that.

Because Wal-Mart was not part of our process, said Ms. Keifer, it is not within our jurisdiction, I have not seen the records related to it.

Mr. Sweeney asked Mr. Collins who was the owner of record.

C & W Auto Parts, answered Mr. Collins.

Mr. Sweeney asked if they were aware of the conditions being put on any future building permits in the property.

Yes, the DelDot letter was sent to the owner, said Mr. Collins.

### **IN OPPOSITION**

None

**Public Hearing is Closed on Application CS-10-01**

**M-020-10** Mr. Sweeney **moved** to conditionally approve application #CS-10-01, Glasgow Reformed Presbyterian Church. I include approving of the waiver from sidewalks along both road frontages (Rt. 13 & Voshell Mill Rd.) and modifying the landscaping standards to require planting of four trees to account for the church's portion of the overall site. I include the following conditions as recommended by Staff: 1) The final plan submission shall comply in all respects with the County Code, including but not limited to correcting the items of noncompliance identified within the January 7, 2010 Staff Recommendation Report at Section II.A. on pages 6 and 7 therein. 2) The subject site is zoned BG – General Business in which a church is permitted as a conditional use per sections of the County Code; and 2) the application complies with the County's Comprehensive Plan; seconded by Mr. Angel.

Roll Call:

Mr. Angel – yes, for reasons stated

Mr. Brode – yes, reasons stated

Mr. Buckson – yes, reasons stated, no public opposition

Mr. Eaby – yes, reasons stated

Mr. Ennis – absent

Mr. Sweeney – yes, reasons stated

Mr. Banta – yes, reasons stated, no opposition, recommendations by RPC and Staff

Roll Call reveals 6 affirmative votes, 1 absent (Ennis).

**CLOSE PUBLIC HEARINGS**

**OLD BUSINESS**

None

**NEW BUSINESS**

None

## OTHER BUSINESS

1. Move to have Executive Session immediately following the Committee Meetings on Tuesday, February 2, 2010, for preliminary discussion on site acquisition for a publicly funded capital improvement; legal strategy session regarding collective bargaining or pending or potential litigation; and personnel matters pursuant to 29 Del.C. 10004(b)(2), (4) and (9)

**M-021-10** Mr. Eaby **moved** to have Executive Session immediately following the Committee Meetings on Tuesday, February 2, 2010, for preliminary discussion on site acquisition for a publicly funded capital improvement; legal strategy session regarding collective bargaining or pending or potential litigation; and personnel matters pursuant to 29 Del.C. 10004(b)(2), (4) and (9); seconded by Mr. Brode; carried by Roll Call vote 6 yeas, 1 absent (Ennis).

## INFORMATION ITEMS

Mr. Banta stated he attended the Ag dinner at Dover Downs last week and was well received and greeted by two young ladies - the Pres. and Sec. of the FFA. Last night we were with DSU and UD Extension Service. We were treated royally. They are the future of America. Agriculture is here to stay.

Mr. Petit de Mange reminded them that tomorrow at 5 PM at the Long Acre Village Complex there will be a Chamber of Commerce Business Mixer. Part of the program will feature our future library site.

Mr. Sweeney said in reference to the Extension Service, he wanted it on record that it was his team that won the competition for the first time. That was after another certain party cheated during the game.

Mr. Petit de Mange asked it be noted for the record that Mr. Sweeney's team was the first to go so they had one point ahead of all the other teams in the room. They were advantaged.

## PUBLIC COMMENTS

None

## COMMISSIONERS' COMMENTS

None

**ADJOURN**

**M-022-10** Motion was made by Mr. Brode, seconded by Mr. Sweeney and carried by Roll Call vote 6 yeas, 1 absent (Ennis) to adjourn the meeting. **7:50 P.M.**



Loretta L. Wootten  
Kent County Clerk of the Peace

29 Del.C. §10004(e)(2). The Agenda items as listed may not be considered in sequence. This Agenda is subject to change to include additional items including Executive Sessions or the deletion of items including Executive Sessions, which arise at the time of the meeting.

