

**MINUTES OF THE KENT COUNTY LEVY COURT
COMBINED MEETING
KENT COUNTY ADMINISTRATIVE COMPLEX
555 BAY ROAD, DOVER, DE
LEVY COURT CHAMBER, ROOM 203
TUESDAY, SEPTEMBER 11, 2018**

Call to Order

The Business Meeting of the Kent County Levy Court was called to order at 7:00 p.m. by President Banta.

Invocation and Pledge of Allegiance

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

Moment of Silence for our Troops

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

Roll Call and Determination of Quorum

Allan F. Angel	Commissioner
Eric L. Buckson	Commissioner
James E. Hosfelt, Jr.	Commissioner
Glen M. Howell	Commissioner
Terry L. Pepper	Vice President
George W. Sweeney, Sr.	Commissioner
P. Brooks Banta	President

There are seven (7) Commissioners present at Roll Call.

Adoption of Agenda

- M-18-161** **Motion** to approve the Agenda as presented made by Mr. Pepper; seconded by Mr. Angel; carried by Roll Call vote seven (7) yeas.
- M-18-162** Mr. Angel **Moved** to approve Business Meeting Minutes of Tuesday, July 24, 2018, Tuesday, August 14, 2018 and Tuesday, August 21, 2018; seconded by Mr. Sweeney; carried by Roll Call vote seven (7) yeas.

INTRODUCTIONS – None

Recess to Committee Meetings – 7:06 p.m.

Reconvene Business Meeting – 7:34

PUBLIC HEARINGS

FY19 DELAWARE TRANSIT CORPORATION
REIMBURSABLE TRANSPORTATION BUDGET APPORTIONMENT

Mr. Hosfelt:

1. Resolution 3713, FY19 Delaware Transit Corporation Reimbursable Transportation Budget

Public Hearing Open on Resolution 3713

IN FAVOR – None

IN OPPOSITION – None

Public Hearing Closed on Resolution 3713

- M-18-163** I **Move** to approve Resolution 3713 in the amounts described in the Committee Meeting by Ms. Durham; seconded by Mr. Buckson; carried by Roll Call vote seven (7) yeas.

Roll Call

Mr. Angel: Yes.

Mr. Buckson: Nice job by Staff, approval, no public opposition, my vote is yes.

Mr. Hosfelt: Yes, based on Staff's recommendations, no public comment.

Mr. Howell: Yes.

Mr. Pepper: Yes, all reasons stated.

Mr. Sweeney: Yes, all reasons stated.

Mr. Banta: Based on Staff recommendation, no public comment, I vote yes.

Roll Call reveals seven (7) yeas. Resolution 3713 has been approved.

2018 KENT COUNTY COMPREHENSIVE PLAN

Mr. Buckson:

1. Ordinance LC18-08, An Ordinance Adopting the 2018 Kent County Comprehensive Plan

Mr. Buckson: I believe momentarily now Ms. Keifer's going to be joining us. She's going to give us an overview, we're going to have some general discussion, an opportunity for folks of course to weigh in on the discussion and gain some useful information. I'll reserve my comments for a later time. Without further ado, Ms. Keifer, Mr. Connelly when you're ready.

Sarah Keifer stated these Public Hearings are being conducted for the purpose of giving the citizens of the County the opportunity to present testimony on the application and ordinances that are before the Levy Court.

Everyone will have a chance to speak. All statements are to 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 hearing should be presented to for identification and inclusion in the record.

For each application before the Levy Court:

1. The President of Levy Court will introduce the application;
2. The Levy Court will then receive testimony from those in favor;
3. Testimony will then be received from those who may be opposed.
4. After everyone has had an opportunity to speak, the hearing on the application will be closed and the Levy Court will then take what action it deems appropriate.

Levy Court's decision will be based upon public hearing testimony given at this meeting and a recommendation submitted to the Levy Court by the Regional Planning Commission. I would ask that the recommendation be included, by reference, in the permanent record of the meeting established by the Clerk of the Peace.

The Public Notice of the Hearing was published in the August 24, 2018 edition of the Delaware State News.

Ms. Keifer: Just briefly as an overview of what a Comprehensive Plan is, it is intended to be a long-term vision of the community. It's the community-at-large determining what its future is and how it's going to get there. It addresses both physical features in the County, social and economic. It is intended to guide decision making throughout, not just with Land Use Applications but also Capital Improvement Planning, Strategic Planning, in addition to ensuring efficient and orderly development. It's important to remember it's a policy document, it is not an ordinance. A whole series of ordinances and follow-up plans will follow adoption of the Comprehensive Plan. In fact, one of those ordinances is scheduled to be in front of you at the end of the month. The process that we've gone through to develop the plan is indeed multi year. It is an effort to accumulate and analyze data, population and demographic, economic, etc. It is a substantial public outreach effort as well. When we first started the project two years ago now, we went out into the community and just started talking with people and asking questions about what they saw as issues, what they saw as opportunities, how they wanted to see the County grow and develop over the next 10-20 years. We also employed a fair bit of social media as well as a series of surveys, digital surveys that we sent out into the community and got, quite honestly, a better response right then we expected. And those responses are actually included as appendices in your plans. We also, once we developed the first draft, went back out into the community to get feedback. Also met with a number of individuals and groups to get feedback and developed the version of the plan that's in front of you. A Comprehensive Plan in many ways tells the story of a community, the story that they see for themselves. The overall theme of this plan is very much economic development while also keeping in mind that economic and job growth also rely on a lot of other investments: infrastructure, transportation, affordable housing, different types of development. That's woven throughout the document but the overall theme that we heard from the community was economic development and job growth and I think that's reflected in the plan. Since we developed the draft that's in front of you two amendments were developed. The first amendment one that you have addresses Chapter 5 which is conservation. DNREC, after we had gone through the Plus Review asked for some relatively minor clarifications in the text itself that related back to the discussion of wetlands as well as source water. We made those changes. They also asked us to simply retitle the wetlands map to potential. So that is amendment one; that was also considered by the Planning Commission and recommended for approval. Since the Planning Commission hearing in July we also had some additional meetings. We had been meeting with the KEP, they asked for some additional meetings and we worked specifically on the areas around Little Heaven and around south Frederica. Little Heaven had been identified as an Employment Center throughout the process of the plan and additional commercial area had been identified in the south Frederica area. As we

continued to meet with KEP they asked us to modify those. The Commercial Area around Frederica was expanded. We also added a Town Area classification near Frederica at the request of the Town. And in Little Heaven the Employment Center was expanded. What's on the screen and what's in Amendment 2 in front of you reflects our work with both the KEP, the Kent Economic Partnership and the Office of State Planning. Of note, in the text for Chapter 7: Land Use, that's part of Amendment 2, there is...there had always been a suggestion that for these areas that the County should follow this process up with sort of sub area plans for those areas. The Office of State Planning had asked us particularly for Little Heaven and for south Frederica that, the County commit to holding off on any additional rezoning in the area until those master plans or sub area plans have been completed. In light of that Staff is actually already working on those sub area plans, we've started the mapping for them and they've become a top priority so that we can keep moving this forward. But part of Amendment 2 is that additional rezoning will be delayed until those plans are finished and endorsed by the Levy Court. So that's a synopsis of the two Amendments. I should note that the Planning Commission held a Public Hearing on the Comprehensive Plan July 5th and at their July 12th Business meeting they did recommend, they unanimously recommended approval. That's a fairly brief overview, I am happy to answer any questions or address an element more specifically if you'd like.

Mr. Banta: Before we open the Public Hearing Ms. Keifer I personally would just like to make a general comment in regard to the Planning Staff and the effort index that was placed on making sure that we went to Smyrna, Dover, Cheswold, Milford, Harrington, and places in between. And that all occurred over a two year period, so I personally, and am sure Levy Court does, commend you for the exceptional effort that your team placed on getting this project done. It took two years, we have not yet approved it, I understand that, but I just want to make that general comment about our respect for the service you all have done.

Ms. Keifer: Thank you.

Mr. Pepper: Thank you Mr. President, thank you Eric. Little Heaven, we've got a new area there called Employment Centers. Can you explain that to us in layman's term? And you keep mentioning KEP. I'm sure a lot of people in the audience have no clue what KEP is, so if you could keep your abbreviations to a minimum I'm sure everybody in the audience would appreciate that. But if you could explain the Employment Centers and what that involves.

Ms. Keifer: The intent of the Employment Centers is to identify specific areas in the County. Little Heaven is only one of them, where land is dedicated for larger scale economic development efforts with a focus on job creation as opposed to service and retail. It's sketched out in the Comprehensive Plan we're working on. A zoning district will accompany this. We're working on a zoning ordinance now that will identify specific uses that would be permitted and any design criteria, etc. But the idea is simply for the County to dedicate substantial areas of land

where they are primed and ready for economic development and efforts, but very specifically not designed for service and retail.

Mr. Pepper: Little Heaven; Little Heaven's on both sides of Route 1. Why did you limit the amount of this type of development on the east side of Route 1?

Ms. Keifer: That's all a matter of degree. I don't know that everyone would agree. It was limited. We worked with the Kent Economic Partnership to determine what the boundaries would be. After our last meeting with them the boundaries were slightly larger. State Planning in concert with a number of State agencies asked us to pull a couple of parcels out; two of them because they were owned by Barrett's Chapel and the other because it's in Ag Preservation right now so the Department of Agriculture asked us to pull it out. We went...using very much the infrastructure improvements that Del-DOT has constructed, or is constructing right now, that was our primary guide where development would have access to the new infrastructure rather than having to rely on secondary roads. There's also a letter in your packet from Del-DOT specifically asking us to be mindful of the east side of Little Heaven because the service road is not designed necessarily as a service road at this point, it's meant to be an off-ramp. So they simply asked us to be mindful, but that we relied on the infrastructure that exists.

Mr. Pepper: Thank you. Thank you, Mr. President.

Mr. Buckson: Thank you, Mr. President, Staff, and individuals in the audience here tonight to listen and learn and have some discussion. I certainly recall and it brings back some memories of 10 years ago when this place was overflowing with individuals and the threat was, and I think it was a real threat, runaway growth and the lack of controls. And I think that the Comprehensive Plan that was adopted that night and put forth recognized those concerns, and then we thought with the APFOs and things and so I think we have a very good balance. Fast forward 10 years we have a different threat and that threat is of complacency. I don't think we can survive and thrive if we solely focused on residential development. We have to be in the business of attracting and being on the ready to participate in attracting economic development and I don't think the governing body up here's role is to go grab. It's basically to say, we're on the ready if there is the invitation, we have the potential to do this. And that's what this is, it's just potential. There's no mandate here or requirement and absolutely there will be more discussion both with the State, the Staff and through public workshops and information that'll be held down the road as we develop what's termed a Master Plan. And to answer your question, Mr. Pepper we had to listen, didn't have to we agreed to, listen to some of the suggestions that the State made. They identified some reasons why we needed to pull back and we agree, this wasn't an attempt to just, you know blow it up. And listen for the individuals in this audience and my district that will be in opposition, I get it and I accept your criticism. I knew going in when I made some input, some of the decisions I

knew...it was going to come with a lot of risk. The easiest thing I could have done was to sit back and say no and sit there. The same way I could have done it the night 10 years ago. So with that said I anticipate listening to anyone that comes up, I'll certainly seek to get you answers either by way of individual communication or tonight, but if it solely just to express your concern don't take my ***INAUDIBLE*** as a lack of interest, it isn't it's just, I get it, I understand why you're here. With that said I'll turn it over to you, Mr. President.

Mr. Sweeney: So Sarah, the document, the adendum...second adendum requires or requests that we come up with a Master Plan for those areas that we added to that area, south Frederica. Given that we have the introduction of an ordinance later tonight that has a date on it for when it will be heard, will the Master Plan be done by that date?

Ms. Keifer: Will it be done in a month? No. That ordinance in particular is unique in that the area actually is already zoned, but we have approached the applicant about delaying a bit and giving us a chance to finish these.

Mr. Sweeney: And the reception was?

Ms. Keifer: I can't make promises but I think we can come to an agreement.

Mr. Sweeney: Okay.

Ms. Keifer: To at least postpone a bit.

Mr. Sweeney: Okay, my second question before the President turns it over to public comment, when we make these decisions of Employment Centers and commercial areas and industrial areas, I know that industrial areas have a negative connotation to it. In your opinion what effect do these decisions have on the surrounding land and property values in those areas?

Ms. Keifer: Honestly I can't speak to zoning and property values. I think that's a bit too nebulous. In my experience...in the study I've done of it, what matters more is the quality of the development. So it's not necessarily that a specific land use is proposed. It's more, are we protecting the surrounding area and are we making sure... And I think certainly everyone we talked to throughout this process wants whatever development comes to be a quality development that positively serves the County. It doesn't stop with just a designation on a map, it still...our ordinances need to reflect what we want to achieve.

Mr. Sweeney: Right, so it's...my hope would be that with our designation of certain areas that some of the land values of people who are sitting on the bubble, whether or not they want to get out, get away from the area, whether or not they benefit from our designation by their land values going up because of the proposals that we know are coming for that area.

Ms. Keifer: In my experience, good development whether it be residential or nonresidential, quality development improves property values.

Mr. Sweeney: Alright, it's nice that we depend on you guys for that too. So I appreciate all you guys did on this, that you've already heard tonight. Thank you, your staff worked pretty hard on it and the amount of public input you received and the effort you took to get it out to the public with all the meetings is greatly appreciated. Thank you.

Ms. Keifer: Thank you very much.

Public Hearing Open on Ordinance LC18-08

IN FAVOR

David Edgell, State Planning Office, 122 Martin Luther King, Jr. Blvd., South, Dover, DE: Just a few words about the process, again Ms. Keifer mentioned the many comments that have gone back and forth. This process has been a two year process for the County and again concur with your congratulations to the County Staff. This was done inhouse with your own planners and resources who know the community best and I think it was an excellent planning effort. I've enjoyed being involved and engaged in my role for these two years and I'm glad to see us here tonight looking at a planned document. This has been reviewed rather thoroughly by the State. Comprehensive plans don't only have to meet the needs of the community but there are also some State requirements they have to follow which this plan does. They also can't have...has to follow the State Planning Policies and Strategies imbedded in the State Strategy and Policy and Spending for us to forward it on to our cabinet committee and our governor and this plan very much does that. There have been...you know there's been a presentation to the cabinet committee, there's been a formal PLUS meeting with the representatives of the various State agencies, there's been numerous back and forths and comments as was mentioned in this most latest amendment series which came after the PLUS meeting but before tonight so I can stand here tonight and say what's in the plan is...has been thoroughly reviewed by the State and does meet the standards for us to recommend approval to our cabinet committee on State planning issues, which would then be a recommendation to the governor and at his discretion he would certify the plan. Certification of the plan indicates that the plan...that the State government is in concurrence with the goals of the plan and will work in concert with the County to implement those plan elements. Couple of things I'd like to mention and highlight, just to say, first of all, overall despite the fact that it meets all the requirements that we have and look for in a comprehensive plan it's actually a very, very good plan and I'll tell you a couple of reasons why I think that and we in our office review all the plans in the State, the County plans and the municipal plans. But one reason why I think it is so well done and well put together is that it...you followed your same growth

management strategy for over 20 years now with your growth zone, your protection of the agricultural areas of the County and your direction of growth into the central core there where you have the infrastructure and services in our towns and in the County areas and that can't be understated because it does allow the State government and its agencies to do proper infrastructure planning and service planning for our population. So thank you very much to the County for sticking with that, it allows us to build on the good work that's been done in years past. The second thing I'd like to highlight, that I'm very pleased about with this plan is this plan is drafted a little bit different than your previous plan which was a very good plan as Mr. Buckson mentioned, very good for the time in which it was adopted with the growth and the residential pressures. But this plan I think takes it a step further with particularly, I believe it's called the Land Use Strategies Map and there's an Economic Development Strategies Map. These are things that provide more of a vision and more of a focus for how different areas of the County will grow as time goes on and that will be very helpful as you proceed working on these different areas and Master Plans and so on and so forth. The third thing which has been mentioned a number of times I would say is ***INAUDIBLE*** focus on economic development and job creation which is a priority of the State and we look forward to cooperating and collaborating with the County to make those visions a reality. And Ms. Keifer already mentioned in her presentation some of the back and forth and we've talked a little bit about this Little Heaven area and the south Frederica area and I'd just like to kind of finish by saying one of our recommendations early on that was adopted in the earliest drafts and further adopted with this most recent edition has been the focus on these Master Plans or smaller plans before we develop some of these areas. The goal with that is truly to work with the agencies that are involved and the infrastructure and services, work with the community, develop some real details of how these areas would be developed. It can include the design, the quality of the development, the availability of access and make those areas more successful when the development does come in those areas, which Mr. Buckson said is not assured but at least through that process we can get a little more local and a little more detailed and if there are other projects and processes that need to go on to make that happen they can certainly be done and started so that when development does come and the jobs are to be created we can all be ready for them. So I can certainly talk on that, about how great Master Plans are, give you tons of examples but in the interest of time I will conclude my comments and just say I'm open to any questions about the process and I also recognize that you're going to hear comments from citizens, from the public, from different groups tonight. I certainly, you know expect and encourage you to take those comments into consideration as you consider this plan. With that, are there any questions for me?

Mr. Sweeney: Thanks President Banta. First of all Mr. Edgell, thanks to you and express my thanks to Connie Holland for the job and the feedback that you guys provided on our plan. The Office of State Planning is critical to our success so please thank her for us. I know you can't speak for the governor or the cabinet

committee on State planning but in your opinion do you think there's anything...any chance that this might not be certified by them?

Mr. Edgell: I can't give you a...I can't give you a positive answer but I can see right now in the draft and the amendments that have been prepared and the back and forth feedback that Ms. Keifer and the Staff have provided to us... All of our questions and concerns have been answered in the current draft and the amendments and our recommendation as the State Planning Office to our cabinet committee will be to recommend to the governor to certify the plan. And that's again without...there's going to be a discussion tonight, there might be some further changes and you know...so that's just a...

Mr. Sweeney: So knowing that one of the Charters of the Office of State Planning is for economic development in the State of Delaware, do you think that this plan has enough economic focus to have those leaders in charge of economic development to start to look south of the canal for any new economic opportunities?

Mr. Edgell: Short answer is yes and I think as I mentioned, in this plan where it takes the previous plan several steps forward that economic development focus is something that was in the previous plan but it's really front and center in this plan based on the public comment and feedback that you have received. I would say that his idea of Master Planning, this idea of identifying these growth areas, the structure that you as a Levy Court have put in place with the Kent Economic Partnership and identifying the different industries that might be viable here in Kent County, and looking at those inflows and outflows, I think all those are tools that are very powerful tools that can help the County attract the jobs that maybe it hasn't seen going north of the canal or elsewhere. I feel like this is a much better plan than you had before and I'm really looking forward to working with the County and the planning staff and the agencies to work on those Master Plans. And with the citizens as well because part of this effort is, you know, I think one of the previous questions was what will it do to property values, how will it effect the area around it. That's all part of the Master Planning process, to really identify what kind of development is good development, what's going to be viable in this area, what do the economics support and how's it going to be a positive for the County.

Mr. Sweeney: Thank you.

Mr. Buckson: Thank you Mr. President. I'll be brief because really what I wanted to do was make sure you kind of stated or highlighted the process for the Master Planning. I was concerned after the changes were somewhat developed or later in the process. The main concern that I had was, I felt like they were warranted but also was concerned about the situation regarding whether or not the public would have an opportunity to have input, and with the implementation of the Master Plan, I do believe that that will create some success in that. So

hopefully outlining what you've stated here and some of the language, and if there are questions that come up regarding that feel free, maybe that we can have you step up and answer those questions. Because I think that's important tonight that folks that have questions, legitimate questions that they certainly should have those concerns or those questions answered. Thank you.

Mr. Edgell: I'd be happy to answer further questions later this evening. If there's nothing else? Thank you very much.

Ed Hallock, 547 East Fourth Street, Bakers Choice Development in Little Heaven, Frederica, DE: Thank you. ***INAUDIBLE*** I just want to say that I think it's been...comprehensive plans are a good thing so overall I support the plan that's been developed and with the concurrence with the State Planning Office I think that you probably have a good product here. My previous job I worked for 25 years with the Office of Drinking Water running that program. I worked closely with the staff here, Dave Hugg when he was there, Davd Edgell, Connie Holland so I know the work they produce. What I do want to say, overall I approve the plan. I like it, I just have some concerns in the Little Heaven area, obvisouly that's where I live. So just a brief history, my family moved into Little Heaven in 1960, in the Bakers Choice development. At that time it was dirt roads. Route 113 was just two lanes, there was no light at the Bowers Beach Road, and the Rainbow Inn was the place to be on Friday and Saturday nights. Since that time my mom worked with the State and we finally got a traffic light at the Bowers Beach Road. That helped with getting across the highway and getting out of...that was a big improvement. Prior to that, as kids if we had to get across the highway to go to the store, one of us finally broke a leg so we had some crutches. You'd stand there until a car on the weekend, till a car finally stopped, you picked up the crutches and you ran across the road to get across. So with the traffic light you knew they were going to get backed up and then you could get across so that was an improvement. My mom also worked to get the roads paved in Bakers Choice so that was a big improvement, we could drive down on the rainy season, we could get down to our house instead of having to park on the Bowers Beach Road. Then Del-DOT duelized 113, that was an improvement, an additional improvement through that area. It is now...113 is down in Milford and SR1 is going through. And we now have the SR1 improvement project, I think that will be a big benefit. We will finally have easy access to get...if we want to head down to Milford we can be able to get up to speed, not slow up the traffic, merge in...it still slows up at Thompsonville Road, I don't know why but there's still that back-up there on the weekends. But in any case, it will be much smoother if we need to get to Camden, wherever we can get out and go without having to get into the traffic. That will be a big improvement. That will finally give us some relief getting in and out. So my concern right now is the employment zone in Little Heaven. I would ask...I think the Master Planning idea is excellent, if possible I'd be willing to work with that, you know be one of the citizens to help you on that. I just think that since we finally have some relief for getting in and out of the Bowers Beach Road, the residents of Bowers Beach,

the residents in Bakers Choice and Highpoint Mobile Home Park we can get around, we can finally move around with ease, I would like that to go for a few years before we start jamming up those roads with more traffic. And I don't know what an Employment Center is, I would think that commercial zoning, business zoning, industrial, all employ people. So I don't know where a separate employment zone is. But that there can be for further discussion and you know, I'm willing to be openminded about all that. I would just like to ask that it take a while, we take our time doing that, creating the employment zones to give us a little bit of a time to enjoy easy access in and out of the Bowers Beach Road, Bakers Choice and Bowers Beach. With that, thank you very much.

Boyd White, 164 Winners Circle, Magnolia, DE: First I'd like to thank Sarah and her staff, it's a very good Comprehensive Plan. She's always been very open and helpful for me and I appreciate the plan. There's a lot of great detail in there. I like the idea of the Master Plan, I think that's necessary. It's just like when you go to build a house you just don't buy...you don't have one contractor, you have your plumber, your electrician, your HVAC. So you have to have the Master Plan to really do it properly and that would benefit the residents. Like Eric Buckson said, it would take a lot of stress and tension out of that and it would also, I think, help the developers and the employers who want to come in the area because they know pretty much what they can do after the Master Plan is done. So I think I'd like to be involved in that process as well. I'd like to encourage the County to maintain the integrity of the growth zone. I'm just afraid that if we go too much east of SR1 it could open up areas for contention in other areas of the town, you know of the County which might want to do more east of the Growth Zone. That's my only two concerns. I'm for the Comprehensive Plan, I like the idea of the Master Plan and I hope the Master Plan will help the County maintain the integrity of the Growth Zone to a certain extent. That's it.

Mr. Banta: Always good to see you Boyd. Appreciate your comments. Thank you.

Mr. White: Thank you.

Cheryal Roe, 1342 Clapham Road, Magnolia, DE: I too did a comprehensive review of the Comp Plan and think that you guys have done an excellent job in identifying the areas of improvement as far as the Economic Plan, the Land Use... And I think the Transportation area personally needs to be beefed up a little bit. I'm hoping that by doing the Master Plan it will compliment the Comprehensive Plan. As far as the Little Heaven exchange area is concerned I...we have two farms. We have a farm that's inside the Growth Zone and we have a farm that's outside the Growth Zone that is in the Little Heaven area. Our concern is that when you're looking at these Employment Centers the people that own the larger ends of the property on that side that's on the No Growth Zone, that that needs to be looked at and we need to be a part of that development so that we understand where the areas are for the employment and where our land sits and if

there's a potential that that land could go and be used for economic development than we might want to be considered as far as the property is concerned. And that's all I have.

Mr. Banta: Appreciate your time. Any questions? Seeing none, thank you very much.

Linda Parkowski, 1442 Skeeter Neck Road, Frederica, DE: I'm here tonight representing the Kent Economic Partnership and I do want to thank Sarah and her team for putting in all the effort in creating this Comprehensive Plan. I think the citizens of Kent County spoke loud and clear in the Comprehensive Plan. They said they're looking for jobs, they're looking for good, well-paying jobs. And that Economic Development was important to them throughout this process. So we appreciate, from the Kent Economic Partnership that we have been involved in numerous meetings. Some of our feedback was taken and incorporated, some of our feedback was not taken and not incorporated, but that's the way things go. At least we were able, in the County, in this County to provide feedback and that was the important part of the process. So we as a Kent Economic Partnership, we support the Master Planning process, we just want to make sure that it's done quickly and efficiently and that it doesn't stop any progress that might happen in those areas. I'm happy to answer any comments or questions that someone might have.

Mr. Banta: Any questions for Ms. Parkowski? Seeing none, thank you very much for your time.

Ms. Parkowski: Thank you.

Mr. Banta: Appreciate it.

Judy Diogo, Central Delaware Chamber of Commerce, 435 N. DuPont Hwy: I want to thank everyone for all the effort that has been put into this Comprehensive Land Plan. I particularly want to thank Sarah and her team for listening to us, meeting with us repetitively, there have been a lot of meetings so I thank you guys for entertaining us and listening to us. We stand ready to work with you all on this Master Plan. We think moving forward the Master Plan is the way to go for the County. We all want good jobs, we all want better paying jobs, we all want to see economic development. We all want to make sure that at the end of the day we're all doing the right thing for the right reasons. So as a Chamber we stand ready to support you, we stand ready to again assist you with sending out surveys. I do agree with Linda that we need to keep this process moving, we don't want to slow it down, we want to keep going. I think we have a really good thing going here. We're seeing a lot of partnerships, we're seeing a lot of people stepping up to the table, and for the first time in a very long time in Kent County we are all singing the same tune. So I really encourage us to keep the momentum going and

again we're here and we're ready and I thank you very much for all the work that's gone into this. Again, we absolutely support the idea of a Master Plan.

Mr. Banta: Thank you, Judy. Any questions for Ms. Diogo? Seeing none, thank you very much.

Ms. Diogo: Thank you.

Mr. Banta: Appreciate your being here.

David Hugg: 52 West Fairways Circle, Smyrna, DE: You knew you weren't going to get by without me speaking tonight.

Mr. Banta: I thought you might bring a stool with you but you didn't do that.

Mr. Hugg: Actually I came tonight just to scare Sarah because I thought if she saw me in the audience she would probably panic. My name is David Hugg, I'm the Planning Director for the City of Dover and a Kent County resident and formerly the Town Manager in Smyrna so I have a long history of working with the County on a number of these issues. I want to...just a couple of things. One, commend Sarah and her staff for the fine job that she's done. It is an interesting and complex and challenging job that she has and I think they've produced an outstanding Comprehensive Plan for your consideration. On behalf of the City I want to thank the County and Planning Staff and the County generally for the level of cooperation and support that we have had generated with each other over the last couple of years. In particular, the City and the County have been working very closely together on the AeroPark and the civilian air terminal and that whole facility down there with the intention of trying to create a major employment destination if you will there. I also want to let you know that the City fully endorses the Employment Zone that the County has recommended in its Comprehensive Plan and we've had discussions already with Sarah about how to integrate that into the other half of the road if you will, which is an employment area designated in the current draft City Plan. As a County resident I would urge you on behalf of myself and my family, please do the Master Planning, do it carefully, thoughtfully. Involve the citizens and the property owners who are effected by it. I think there's been some fear and some disinformation that always happens when we do these kinds of things. I don't think it was certainly in anyway intentional but the folks who directly ***INAUDIBLE*** whether it's my son or Ed Hallock or others who will live with your decisions please make sure you involve them in the process carefully. I pledge on behalf of the City that we will involve the County carefully and completely as we complete our Comprehensive Plan hopefully by February of next year. Other than that, thank you very much for the job you are doing and thank you Sarah for the job you're doing.

Mr. Buckson: Mr. Hugg, if you want to stand there, you can sit down. I think you had brought...again we've heard again the Employment Center and so I think it might be of some value to kind of briefly explain what the vision might be because again it's strictly a vision. Before you even state that, maybe to say how did we somewhat grow or expand the Growth Zone in the area to the south we'll call it. Simply put, economic development was number one on the list and the State had invested \$100,000,000.00 in there when it came to new service roads in and overpass. So it's expected that was a logical initiate. Again, simply a vision and a plan but that's the how, that's how we ended up there. Mr. Petit de Mange, I don't need you to go into great detail but maybe a brief description of what an Employment Center potentially could look like.

Mr. Petit de Mange: Thank you, Commissioner Buckson. As you know our current Zoning Code does have commercial districts, does have industrial districts, does have some semblance of office campus type of zoning in text, we really don't have much of that on the ground. The zoning category of choice tends to be if someone's planning something other than residential, whatever...regardless of the scale is the BG district, General Business. And once that zoning is let you know, there's a 150 or so uses that could possible occupy that and most of it is service retail type uses. What's envisioned here and it dovetails...the Master Planning and the result zoning that will emerge which we are currently calling Employment Center zoning or Employment Center district, whatever it ultimately ends up being called is going to define a new zoning category that will be reserving lands for things like larger scale, non-retail Employment Center Development. Things like research and development parks, professional office development, business campuses, light industrial, light manufacturing. If you think of some of the, what we would consider premier businesses that occupy Kent County, for example ILC Dover, a high tech company located west of Frederica, it's zoned General Industrial. General Industrial allows for all other sorts of very harsh uses so if we were to try to locate another business like that, that high tech company which is a highly reputable, highly clean operation employing lots of people at significant wages we would fight the battle and the fear of zoning that could allow all sorts of other types of uses. It's almost like a, somewhat of a blank check. Someone comes in and they say they need 100 acres of IG zoning, General Industrial, people start thinking smokestacks or things of that nature. The Employment Center zone will finally define the types of businesses and the types of physical development that would be yielded by that zoning category, that will be more akin to professional office campus, research and development park, that sort of development approach that would be high quality environment and high quality employment. So that's really the vision right now and reserving appropriate lands for it that are going to be supported by infrastructure, that's significant. If you're going to have those types of Employment Centers you have to have quality infrastructure and we believe that the locations that have been selected both Little Heaven, Frederica and east Dover by north of the Dover Air Force Base that Mr. Hugg just referenced are prime locations for that kind of high quality employment development that will be

attractive to businesses and investors who are looking to bring that kind of employment to Central Delaware. Commissioner Buckson did that capture it?

Mr. Buckson: I appreciate your indication and I think the key recognition is that when investors, when companies look that's what they look for, a Master Plan that involves this type of set-up that's already been acknowledged maybe or provided for by way of investment in infrastructure, expectations, all those things. They look for certainty. I think this helps to provide it, it in no way ensures it. I am certain that if you're concerned in that area, if you live in that area, you're like, well what if this thing explodes? Unfortunately that just doesn't happen. I mean you're really in a highly competitive environment but we at least need to be in a competitive playing field where we have the tools. And the reason for the...and then I'll stop because we need to go, the east side, although it's minimal we did expand slightly only for economic development not for the purpose of expanding residential homes. The argument to be made is that with that investment so close to both sides of Route 1 it was a challenge to say that on this side of the highway it's perfect but on the other side with brand new investment, service roads, overpass what have you that road's not accessible. It was a challenge, that's why. But again none of this is a guarantee. It's simply a vision. But I do think there's individuals in the crowd that want to speak now so we need to move on. Thank you, Mr. Petit de Mange for that explanation.

IN OPPOSITION – None

Public Hearing on Ordinance LC18-08 is Closed

Mr. Buckson: Mr. President, crowd, you've caught me by surprise. I believe they're going to take me up on the offer to talk later. Ms. Keifer, because I recognize that there are amendments that need to be put forth first rather than making a mistake I'm going to ask you to coach me up a little bit as I move my papers around now. So exactly, we're going with amendments first and then the actual adoption. And the amendments are not... Give me a second.

M-18-164

Mr. Buckson: Appreciate your time in allowing me to get better prepared for that. I was anticipating a few discussions of potential change and then moving forward. With that said I am prepared to make a motion, Mr. President. Feel free to correct me, Mr. W. Pepper if I keep it too simple but I am going to make a **Motion** that we approve Amendment 1 as it's written, revising Chapter 5, which is the Conservation Chapter (pages 5-4, 5-5 and 5-15), and the revised Map 5D referencing Wetlands, Potential Wetlands and Habitat; seconded by Mr. Sweeney.

Roll Call

Mr. Angel: Yes, reasons stated by Commissioner Buckson and no opposition.

Mr. Buckson: Reasons stated, yes.

Mr. Hosfelt: Yes, based on the reasons stated.

Mr. Howell: Yes, reasons stated.

Mr. Pepper: Yes, based on the reasons stated and the explanation by the State.

Mr. Sweeney: Yes, for all reasons stated.

Mr. Banta: Yes, for all reasons stated.

Roll Call reveals seven (7) yeas. Amendment Number One (1) has been approved.

M-18-165 Mr. Buckson: I make a **Motion** we approve the Amendment #2, referencing Chapter 7: Land Use, page (7-12), Map 2A – Economic Development Areas, and Map 7C for Land Use Strategies; seconded by Mr. Sweeney.

Roll Call

Mr. Angel: Yes, reasons stated by Commissioner Buckson.

Mr. Buckson: Yes.

Mr. Hosfelt: Yes, based on the reasons given.

Mr. Howell: Yes, reasons given.

Mr. Pepper: Yes, based on the reasons given.

Mr. Sweeney: Yes, for all reasons stated.

Mr. Banta: Yes, for all reasons stated.

Roll Call reveals seven (7) yeas. Amendment Number Two (2) has been approved.

M-18-166 Mr. Buckson: It's my pleasure to make a **Motion** to approve Ordinance LC18-08, an Ordinance adopting the 2018 Kent County Comprehensive Plan; seconded by Mr. Sweeney.

Roll Call

Mr. Angel: Yes, based on Staff recommendations, Dave Edgell testimonial, Kent Economic Partnership, the Central Chamber of Commerce, Commissioner Buckson's comments, the public comments and no opposition.

Mr. Buckson: As per my motion, my vote is yes based on the comments and I want to personally say thank you both, not only to the Staff and their efforts because believe their efforts are big in this clearly, the State, other agencies and of course the public who participated in this and I look forward to developing the master plan with the active participation of all the agencies, Staff as well as residents that live in that area and in the County, so my motion of course is yes.

Mr. Hosfelt: Yes, based on the reasons given. We've had seven (7) people testify in favor of the Comp Plan, looks like we have agreement between the County, the State, Kent Economic Partnership, our business leaders. With that being said I am in favor of this and I appreciate all the work and the diligence given by the Planning Staff, thank you and please thank all your team members. With that my vote would be yes.

Mr. Howell: Yes, for reasons said.

Mr. Pepper: Yes, just reviewing all the reasons that have been stated by the Commissioners I think just about everything's been covered. So I would like to thank the Staff also. Yes.

Mr. Sweeney: Yes, for all reasons stated and we can't put enough emphasis on the amount of public feedback we got from this and the effort put forward by the Staff to make sure that there were plenty of opportunities for people to go to a meeting, to see what this was about, to get on-line, to pick up the document. There shouldn't be anybody next week commenting in the newspaper how this was the worst thing they've ever seen. They've had plenty of time to get out there and to speak to us and get their feedback in place. So again, Staff thank you very much. My vote's yes.

Mr. Banta: Based on the comments of other Commissioners, the inclusion of Economic Development, the Master Plan which is in the process, housing and certainly the team effort by Ms. Keifer and her team as well as the amendments and positive public comments, I vote yes.

Roll Call reveals seven (7) yeas. Ordinance LC18-08 has been approved.

PUBLIC HEARINGS CLOSED

OLD BUSINESS – None

NEW BUSINESS

Mr. Buckson:

1. Farmington Hot Mix (CS-08-18) – Revised Conditions of Approval

Mr. President, I would first like to offer the opportunity... Mr. Howell?
Commissioner Howell?

Mr. Howell: Yes?

Mr. Buckson: While I'm very supportive of this project if you would like to make the motion I'll give you the opportunity to do so regarding the Farmington request for funding. Believe me after the length of time I took you can take at least 5 minutes. Relax. I've set the bar real high.

M-18-167 Mr. Howell: If it's just a simple matter of making the **Motion** I can do that. Anything anybody wants to add to it, reference to Farmington? That's in my district. Okay, **recommend** the revised conditions of approval for the Farmington Hot, CS-08-18; seconded by Mr. Buckson; carried by Roll Call vote seven (7) yeas.

Mr. Buckson:

2. Introduction of **Ordinance LC18-11**, An Ordinance to amend the Comprehensive Plan Map Designation and the Official Zoning Map of Kent County, Delaware pursuant to the provisions of Kent County Code, Vol. II, Chapter 205 Zoning, Article III, Section 205-8 and Section 205-9, and Article XXVIII (changes and amendments) effective December 01, 2000, as amended. (Reference: Application No. Z-18-01) for Public Hearing on Tuesday, October 23, 2018 at 7:00 p.m.
3. Introduction of **Ordinance LC18-12**, An Ordinance to amend the Comprehensive Plan Map Designation and the Official Zoning Map of Kent County, Delaware pursuant to the provisions of Kent County Code, Vol. II, Chapter 205 Zoning, Article III, Section 205-8 and Section 205-9, and Article XXVIII (changes and amendments) effective December 01, 2000, as amended. (Reference: Application No. Z-18-06) for Public Hearing on Tuesday, October 23, 2018 at 7:00 p.m.

Mr. Angel:

1. Reappointment of Jesse Spampinato to the Dover/Kent County Metropolitan Planning Organization, Public Advisory Committee

M-18-168 I'd like to make the Motion to reappoint Jesse Spampinato of the Dover/Kent County Metropolitan Planning Organization, Public Advisory Committee with an update that he gives us an update on his new resume, not the old one. So I make that Motion to approve him; seconded by Mr. Pepper; carried by Roll Call vote seven (7) yeas.

Potential Action Items from Committee Meetings

Mr. Angel:

Kent County AeroPark Lots 17 and 23 – Common Wealth Group – Proposed Lease Agreement and Extension

Mr. Angel: That’s just for information only; we don’t need a motion for that.

Mr. Howell:

1. Route 13 Slip Lining Funding Acceptance

M-18-169 I am prepared to make a motion. I **Move** to accept the funding offers from DNREC and/or USDA for the project with the Finance Director’s concurrence AND also Move to authorize the President to execute associated documents with funding commitment offers for loans and grants related to the Project; seconded by Mr. Pepper; carried by Roll Call vote seven (7) yeas.

2. Paris Villa-London Village Septic Elimination – Easement Compensation – Alverado 928 Peachtree Run

M-18-170 I **Move** to authorize the Department of Public Works to offer Ulises Alvarado and Laurie A. Stern the appraised value in the amount of \$4,040.00 for granting permanent and temporary sewer easements through parcel 7-00-11104-03-4100 with funding through the USDA loan/grant funds AND I Move to authorize the President of Levy Court to sign the easement agreement upon acceptance by the property owner; seconded by Mr. Pepper; carried by Roll Call vote seven (7) yeas.

Mr. Sweeney:

1. Resolution 3717, A Resolution for Outdoor Recreation, Parks and Trails Grant Funding

M-18-171 I **Move** to approve Resolution 3717, a Resolution for Outdoor Recreation, Parks and Trails Grant Funding for the purpose of upgrading patron services at the softball field complex and associated ADA walking trail at Big Oak County Park; seconded by Mr. Pepper; carried by Roll Call vote seven (7) yeas.

OTHER BUSINESS

M-18-172 Mr. Pepper: I Move to go into Executive Session immediately following Committee Meetings on Tuesday, September 18, 2018 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. Sweeney; carried by Roll Call vote seven (7) yeas.

INFORMATION ITEMS

Mr. Petit de Mange: I just want to let the Commissioners know that with the impending potential tropical weather there have been a series of, and will continue throughout the week, a series of emergency bridge call planning discussions with the Delaware Emergency Management Agency and all the various agencies involved. Every day throughout this week at 11 a.m. there's a bridge call and both myself and Chief Faulkner have been involved in those calls and we will keep the Commissioners and also our employees well informed in the event that there are any substantial or significant news to share with you relative to the storm. Just wanted to make that... And some of you are aware I will be busy on Thursday due to a procedure I have to undergo, but I'll be back on Friday and will be back in action.

PUBLIC COMMENTS

Jackie Vineyard, 46 Sheridan Lane, Smyrna, DE: I have map of reference, may I pass it out please? Thank you, Mr. President for letting me have an opportunity to represent the people in my neighborhood. Good evening Commissioners and members of Kent County Levy Court. Pardon my nervousness but it's overtaken me. The reason why I'm here, I am here to speak for the residents in my community. We live on Sheridan Lane and Lakeview Drive in Smyrna, Delaware. We are surrounded by the Town of Smyrna, we are in Kent County. We are not annexed into the Town and we live on a private lane. We are being compromised with the neighborhood that is in back of us called Lake Como Woods and on August 17th without any notification we saw lots of activity from the Town of Smyrna, lots of stakes put up, lots of pins put in and flags. So without notification we started asking questions and the Town of Smyrna is pushing Lake Como Woods because they are 75% with all their building in the third phase and they're looking to complete this development. Our property which is Sheridan...we all own the lane we are not part of the Town, it's a private lane and if you want to picture it it's an extension of our driveways. We take care of the road, it's a one lane road, it's paved and it's property of the small subdivision as we refer to as Sheridan Lane, Lakeview Estates. The map I've given you, you can see that all the cross-hatch is the Town of Smyrna and we are not part of the Town of Smyrna. And the little yellow highlighted lane here is called a forest...a proposed forestry lane and that's going to tie into our private lane and we asked the Town of Smyrna who attended the Planning and Zoning Committee and the Town of Smyrna Counsel we asked them why they are tying into our private lane. And they said they need this for emergency access for their fire equipment. So we spoke to Francis Hartnett the Fire Chief and he came out and took a look at it and, from what I understand, he said that there's no way for the fire equipment to make the cut. And the information that I obtained from the Kent County Levy Court, it's called the Major Re-Subdivision Plan for Lake Como Woods, it says that they have six fire hydrants already in their development and our one fire hydrant at the end of Sheridan Lane on Carter Road is not going

to be...it's not going to give them any extra water. They have a lot of hose they can make it on their own. And we're very concerned because they're compromising our private lane and it's illegal. It's illegal. There are two compromises that we've discovered by looking and walking down Sheridan Lane; there's Lot 20 in their development as well that's a straight-a-way and we feel that that's a compromise. And we're here tonight to let you know that we are asking for help. This has happened since August 17th, there's no official notification and we feel that we're just being seized. We're under siege because we are the ones fighting this and no one is helping us. The Town of Smyrna will not put us on their Town Agenda, we've gone to the Planning and Zoning Board and they basically escorted us out and said, you know, it's for the fire equipment. And it just doesn't make sense. It doesn't make sense because we're not asking to be annexed in. We don't want that footprint of a proposed forestry lane. If you go out and you visit this spot you'll see that they put a house up so it's not a through-way. It just doesn't make sense and we just need help so that's why we're here.

Mr. Banta: Jackie, I appreciate you being here.

Ms. Vineyard: Excuse me, Mr. President we have a lot of elderly people in our neighborhood, could you speak into the microphone.

Mr. Banta: I'm trying to.

Ms. Vineyard: Thank you.

Mr. Banta: Sure. I appreciate your being here. The question I have for you is this. You said the Fire Chief was out there...

Ms. Vineyard: Yes.

Mr. Banta: ...and looked the situation over, he determined that, number one the trucks couldn't make the turn, number one and number two the trucks...the roadway would not withstand the weight of the vehicles, is that correct?

Ms. Vineyard: That's right.

Mr. Banta: So what did the Town of Smyrna say when that was presented to them?

Ms. Vineyard: The Town of Smyrna has not given us an answer. We retained a lawyer for information and they just kept telling us that you'll have to go back to your lawyer. Well we're not at that point. They said that they were going to meet with the property management which is Joe Terranova, if you know who that is. I know who that is. And he will not return the Town's calls so they will not meet...and she offered a public forum as soon as they meet with Joe Terranova but still what we want to do is, we have a petition signed by our

residents and we want them to cease and desist until we find out what's going on. Because this piece of property doesn't make sense...we're coming to Kent County because we're the residents of Kent County, not the Town of Smyrna and we feel that we're asking for help to resolve this. Have them stop the project so that we can figure out... We don't want them any part of our lane. We don't want them using our lane. We'll use our own lane for emergency access, deliveries and such. But we don't want to be part of that community.

Mr. Banta: So it's our understanding that the roadway itself is privately held...

Ms. Vineyard: Yes.

Mr. Banta: ...you and the residents, the other 13 or 14 homeowners own that land...

Ms. Vineyard: Yes we do.

Mr. Banta: ...you maintain it...

Ms. Vineyard: Yes.

Mr. Banta: ...you remove the snow...

Ms. Vineyard: Yes.

Mr. Banta: ...and you repave it as necessary, is that correct?

Ms. Vineyard: We have our own trash service, we have Delmarva Power, we are an island in the Town of Smyrna.

Mr. Banta: I personally think, just me, think that your situation as being unfairly handled. I think that those involved in authority should look objectively at what is being presented and make an appropriate determination for the welfare of you, as citizens of Sheridan Lane as well as the citizens who live in Lake Como Woods. So I have a personal deep concern about that. I visited the site and I know your concern and I think it's a valid concern. I don't know if any other Commissioners have any questions or not. I would appreciate any other comments anybody would have in regard to...

Mr. Pepper: I just need a little clarification here. That light green area that runs into Lot 27 it looks like...

Ms. Vineyard: It's Lot 20 at the point here and this is the proposed forestry lane.

Mr. Pepper: So that's going to go through Lot 27 in that Lake Como Woods?

Ms. Vineyard: Lot 27 there's a house there with an easement, a 10 foot easement. And the Town of Smyrna has allowed a house to be built right smack in the center of this with a 10 foot easement which is actually within inches of her air conditioning compressor and there's a fence going through it.

Mr. Pepper: I'm at loss for the logic of what they're doing if...

Ms. Vineyard: We have too.

Mr. Pepper: Because once they get to that Lot there you don't have room to do anything else.

Ms. Vineyard: Exactly.

Mr. Pepper: I'm at a loss here.

Ms. Vineyard: That's why we're here, too.

Mr. Buckson: I don't know if we can stay here all night to digest this. I'm just flabbergasted by the situation. You have a...I'm very familiar with the lane, but my question is, is the...how is it that this... This is an easement that identifies accessibility to your road or...?

Ms. Vineyard: No, sir. The proposed forestry lane is a 65 foot piece of property that Capano held back for this proposed forestry lane that was signed off on 2006.

Mr. Buckson: But it's not on your property. It's adjacent to it. In another words this yellow section here that's colored in is in fact, whether I like it or not, it's Capano's property or the development's property.

Ms. Vineyard: Yes. Yes.

Mr. Buckson: And the green section is clearly yours.

Ms. Vineyard: Yes, sir.

Mr. Buckson: And there is no...any kind of... Because the only reason you're here is because they need to provide accessibility they said for fire service to get through.

Ms. Vineyard: Yes, sir.

Mr. Buckson: And they're mandating that...that's a mandate that they use your road? Or did the Town...

Ms. Vineyard: They didn't ask permission they just...

Mr. Buckson: In 2006 when this plan was presented, it wasn't presented to you at all?

Ms. Vineyard: Not to me, sir, I wasn't there. But there are residents that have been back there since '85 and before.

Unidentified man from audience: I've been there since 1972 and never got any notice of anything. And I really do not need all that intrusion on my property. I mean I've retired here to enjoy my peace and quiet and I really don't need people coming from Lake Como Woods. When they see this forestry lane they're liable to decide well it's a nice shortcut to get through and we don't need that. I paid to have that thing paved many years ago so... We just need help.

Mr. Buckson: And that's my concern, where do we go with the help for you but asking another question then. I hate to be simplistic but it is so unusual how can this not be just a very clear, cut and dry legal question? Mr. Petit de Mange have you ever seen anything like this, provide a logic to it? I mean it seems to me like we could take this up with the Town, the Town could clearly say that they're wrong. It appears they don't think they're wrong. They have a legal representation there that, I guess agrees with them. But your legal representation disagrees and has identified that or you haven't gone that far yet?

Ms. Vineyard: We haven't gone that far. We haven't asked for litigation we're just asking for direction. This is the piece of paper that that map came off of and it says it is proposed forestry lane and on...I'd be glad to pass this around, a proposed 10 foot wide dedication to public use and what they're also stating here, which contradicts what they've said is that the neighborhood has six fire hydrants in the community that is, it's self-service. Our fire hydrant isn't going to make the difference. And if you have a house in the way you can't get a fire truck through there anyway and just to get a fire truck down our lane they're going to probably have to back in because there so big.

Mr. Buckson: I don't mean no disrespect but I want to get back to how the technicalities of how this even comes to pass, forget whether or not you can get a fire hydrant, whether or not you can get a truck up the road, it's dumbfounding to me. So my question, Mike is, I'm not talking apples to apples, but in general, have you seen something like this in the past?

Mr. Petit de Mange: Thank you, Commissioner Buckson. While we were talking I pulled up the aerial photograph and I'm looking at this property and I've got to say it doesn't make a whole lot of sense to me because between Sheridan Lane and what's known as Troubled Lane in the subdivision there's a house.

Ms. Vineyard: Yeah, there is a house.

Mr. Petit de Mange: There's a house with a fence around it. So I don't see how...it doesn't connect. There's no physical connection between Sheridan and the subdivision because there's a house between it. One question I would have and I'm not sure you can answer this or not but there are five houses I'll say on the east side of Sheridan Lane that look relatively new. Were they part of the new development, were they part of...were they always there?

Ms. Vineyard: They were built in, around 2005 and they are known as the Carmen Sheridan homes. When you look at your tax bill it says Carmen Sheridan Estates and the one, the houses on the other side of Sheridan Lane, they're under Wilson's Place.

Mr. Petit de Mange: Okay but my question then leads to, did those people have permission to use Sheridan Lane as their frontage and to put driveways on to Sheridan Lane?

Ms. Vineyard: Yes, sir and that's where I live on 46...

Mr. Petit de Mange: Somebody granted them permission?

Ms. Vineyard: When you bought the house... We don't have a homeowners association so this is a little bit up there but we understand that we all own to the middle of the road. There aren't any pins or anything we just understand that when we bought into the property. We're all responsible for the road.

Mr. Petit de Mange: So your deed may describe it that way that your property...?

Ms. Vineyard: Some people's deeds do describe it, some of us....

Mr. Petit de Mange: Just the center line, an easement or something?

Ms. Vineyard: Yes. There are easements and there's right-of-ways for the utilities.

Mr. Petit de Mange: But generally on private roads like that there has to be permission granted. It's not a public road so I'm not sure... It does raise an interesting legal question whether or not they have legal right to connect to the road. But beyond that the practical question is, why would they put that in there because it doesn't lead anywhere.

Ms. Vineyard: It's a bridge to nowhere. That's why we...

Mr. Petit de Mange: I don't see the public safety value in it because, unless you're only concerned about two houses that might catch on fire because the only two it would serve...

Ms. Vineyard: Another avenue is the Town of Smyrna does require two egresses out of a development and being as that's a proposed forestry lane... A proposed forestry lane was defined as crush and run, about six inches of crush and run with pavers and then sod and things on top of it. It's very contradictory, it just...it doesn't make sense. But we kind of figure, I'm going to put this up as speculation is that they might have been using that for the second egress into that development. However, because they let the fence go up and the house be built, if you look at the end of the lane where the other yellow highlight is, Lot 20 that's what we think is...they're going to go after when they can't get this proposed forestry lane because it's a straight-through, it goes right to Dozer Court, there is not a house on Lot 20, the utilities are on the right-hand side of the property and there's a cut-in into the curb. So speculation, don't know, they won't communicate with us, is that we're watching that area, too. And they've got the pins on each side of the property and one that marks the middle of the road. There isn't any road there because it's dirt from the end of the pavement to the property line of Sheridan Lane.

Mr. Banta: And still if something were to occur to that road, and hopefully it's going to go in your favor, but you have to maintain that road because the Town's not going to appropriate funds to do that. So I think it's a...it's a very unfair situation, the legalities of which, we're not attorneys of course, but our general opinion, I think mine and the rest of the Commissioners is that what's being proposed is very unfair and probably lends itself to being illegal. But that's just my opinion, other Commissioners may want to voice their comment.

Mr. Sweeney: Jackie, so given the physical impediments for that property, Number 89, being a house that's already on the other side, are you more concerned about the parcel that's identified as parcel 20, for them to connect straight through?

Ms. Vineyard: We're watching that one also.

Mr. Sweeney: Are they saying that, we're going to do parcel number 68 and 20 is their alternative? Or...

Ms. Vineyard: That's our speculation. We're just looking at the whole picture. We're investigating because they will not provide us with any information. Everything that we've gotten, we've gotten on our own.

Mr. Sweeney: Okay. I'm looking at a photograph of Sheridan Lane and it's just a single tar and chip road...

Ms. Vineyard: About this wide, about this wide.

Mr. Sweeney: So I'm not sure how that would even benefit... They would have to... The amount of money they would have to put in to finish that and widen it

and make it a road that's capable of taking some of these large fire trucks would probably be financially...

Unidentified Man from audience: Yeah, I don't want to give up any of my property because they'd take out a big chunk of mine. Because I'm right at that intersection, my property is.

Mr. Sweeney: So Jackie by coming in front of Levy Court what do you think we can do?

Ms. Vineyard: Well letting it be known that we are not interested in having anything tied into our private lane we are looking at liability issues with the Lake Como Woods. Because if they do put this proposed forestry lane in it looks like public land and it goes directly across Lakeview Drive which goes right down the lake and there is an easement for the residents on the left hand side of the lane to use. But that's not public access, that's just private.

Mr. Sweeney: Are there any students on your lane?

Ms. Vineyard: Excuse me?

Mr. Sweeney: Any students on your lane, do they catch a bus out on Carter Road?

Ms. Vineyard: Yes, sir they catch the bus on...

Mr. Sweeney: So they have to walk out to Carter Road?

Ms. Vineyard: Yes, we only have two, three families with children for buses and they go down to the end of Carter Road.

Mr. Banta: Any other questions? So, Mr. W. Pepper I know you've been somewhat silent about this item and you prefer me not ask you any questions but I'm going to. What kind of position could Levy Court take in their behalf? Because they are County residents, the road is maintained by them, the Town, of course if there's problems with that roadway probably would not go in and repair it or if it needed to be widened they would have to get permission from the people that live there to widen it. But they don't want the road repaired anyway because they're handling it and this roadway which was done I think in 2004 you said Jackie?

Ms. Vineyard: The proposed forestry lane was proposed back in 2003 according to this document.

Mr. Banta: So we wonder, you sort of wonder who was on the Planning Commission in Smyrna at that time. A little bit of research might show who that

was and what relationship they had with the developer and what kind of monkey business might have been occurring at that time. With that being said, sir do you have any professional thoughts on this?

Mr. W. Pepper: Looking at the map it appears that Lot 68 and Lot 20 are within the Town of Smyrna so we, the County would have no jurisdiction over those Lots. And the County also has no jurisdiction over Sheridan Lane because it is a private road. So it's up to the residents to... And I don't know what action they might take to prevent the usage of their lane. I mean, they own it unless the developer of Lake Como Woods is able to obtain an easement from them. I don't know how they can have any access across Sheridan Lane or anything but I haven't had an opportunity to look at the deeds for Lot 68 or Lot 20 to know whether there is...has been any kind of ***INAUDIBLE*** to the use of Sheridan Lane.

Unidentified Man from Audience: There can't be.

Mr. Banta: Even if there were, for either one of these Lots, how could they still impose their will on the people that live there?

Mr. W. Pepper: Well, sir without looking at the deed and seeing what reservation there may have been within those deeds I can't really speak to that.

Mr. Banta: Can you make an assumption? That is they own the road, they maintain the road, the owners, the property owners that live there where do their rights come from? Where do they retrieve and get rights to cause this situation not to occur, because to me it looks totally inappropriate, if not illegal.

Mr. W. Pepper: Their rights come from their deed. The lady indicated that their deeds given them ownership to the center of Sheridan Lane so they control their property and they can... No one has a right to cross their property.

Mr. Banta: So the argument then would be, since all the properties lines go to the center of that road, of Sheridan Lane, they own it, they control it then their attorney should make that presentation in that respect, correct?

Mr. W. Pepper: And then they have to litigate that in the Court of Chancery.

Unidentified Man from Audience: Who do we present it to? Nobody's listening to us.

Mr. Banta: Does that help you some?

Ms. Vineyard: That's step one, step two is who do we present it to? Once we get the lawyer to present... Who do we present that to? Town of Smyrna, who's...

Mr. Banta: File a lawsuit against the Town.

Ms. Vineyard: Filing a lawsuit against the Town.

Unidentified Man from Audience: That's a shame we have to go through that to protect our own property.

Mr. Banta: It is and you shouldn't have to. I will tell you this. I've only been on Levy Court 21 years but in that 21 period of time, that 21 years, and all of us have shared all the experiences I've never seen one like this which is so ridiculous. It is absolutely ridiculous. It's unconscionable that it would even happen. I think someone needs to get their head screwed on straight and obviously it's not. I'm not an attorney but I think that's your best course of action. We try to give you the best information we can in your behalf. You're residents of the County. We support what you're attempting to do because what's happening here is totally inappropriate, if not illegal.

Ms. Vineyard: And I sure appreciate your listening to us.

Unidentified Man from Audience: Thank you for listening to us.

Mr. Banta: We're an open government; we pride ourselves in being very open, very transparent. We're here every Tuesday night, we're here to listen and we try to help as best we can.

Ms. Vineyard: Thank you.

Mr. Banta: We appreciate your attendance. How many people here are from Sheridan Lane? That's fine. Okay. So everyone's here, right, from Sheridan... Okay, that's great.

Ms. Vineyard: Not everyone but there's...we have a lot of elderly people that can't make it.

Mr. Banta: I'm elderly too, I respect that, I appreciate that. I appreciate you all coming down here. I hope it's given you some satisfaction and some relief in that you have an option and you need to pursue that with all diligence.

Mr. Buckson: I want to compliment you because you sure had me going. Because during the Comprehensive Plan...you were not on the agenda, there's no mention of this in my agenda. So I figured you fine folks were here to let me know.

Unidentified Woman from Audience: I spoke to Kris Connelly and he said because it was annexed to Town, the development, that little piece of property is right next door to me and he said they could come to the road but they cannot

come on the road. And that's what Kris Connelly told me with Zoning and Planning.

Mr. Sweeney: I have a subdivision in my district that has one entrance in and that's it. They put a second entrance in that's a forest road so the fire trucks can come in and go out without having to turn around. The residents have put two large piles of dirt across that so people can't go in and out that way either, to block it. So, the fire companies haven't complained yet but... Jackie, what school are you assigned to?

Ms. Vineyard: Smyrna School District.

Mr. Sweeney: Which school?

Ms. Vineyard: Which school?

Mr. Sweeney: Yeah, I'm the Supervisor of Technology so...

Ms. Vineyard: Oh.

Mr. Sweeney: Go... You know where John Embert works, right?

Ms. Vineyard: Yes, oh yeah.

Mr. Sweeney: Just saying.

Ms. Vineyard: Well we have neighbors, they...he lives right next door to them. We've gone to the Town; they don't know what to do. And their pushing us off saying, oh, you have a lawyer but that's not the case. And then their saying we have to meet with the property management which is JCM, Joe Terranova and he won't return the calls. That's what they're telling us. And I have a call in to Chalea Johnson, the Assistant Town Manager this morning and no response back. And I will follow up with emails because I have emails and emails. We're just frustrated and we just...we're running out of time because if they start the work...I mean they just started plopping in these stakes. I guess we're just going to have to go get some dirt and Jersey Barriers.

Mr. Buckson: One thing real quick and you may have already done this. I'm not a lawyer but I know it's...paper trails important, very specific paper trail. Make sure that you've articulated that in an official letter signed by the individuals that would be harmed by this action, identifying very specifically to the Town of Smyrna, copied to the developer this is what you believe, this is what you don't want to see happen and have it signed. At least that way if the harm does come, I think possibly in a Court of law, there is no hiding from it. You know, you have clearly identified this, if it gets to that.

Ms. Vineyard: Thank you for the advice.

Mr. Banta: And the deed situation, where the property line runs through the center of the road, that needs to be included along with the cost factor of the maintenance of that roadway, from the road beds to the top surface and the amount of time that you folks have gathered and got your money together to get that accomplished. You have a tremendous ground to stand on and I think it's...any attorney; any reasonable attorney would be able to defend your position.

Ms. Vineyard: Thank you.

Mr. Sweeney: Have you been to Del-DOT? We have a friend sitting in the audience, Jeff Hall who texted me, have you talked to anybody at Del-DOT about this?

Ms. Vineyard: No, sir.

Mr. Sweeney: That's an option too.

Unidentified Woman from Audience: I talked to Del-DOT and he said that... I went through the book and found planning and I called and I told the lady the problem and she put me through to, and I can't remember his name, and he said that they couldn't do that but he had no authority because he was Del-DOT. I also... Ninety percent of the people back there are seniors and we're not... We're law-abiding, we pay our taxes and it's not fair. And they are just...we're being victimized. It's not fair because that property's right next to mine and if a child walks through my yard and drowns I'm responsible. It's not fair.

Dell Tosh, 30 Lakeview Drive, Smyrna, DE: In 2006 the Town claims they sent out notification to all of the property owners about this and they held a public hearing. I can tell you this, I've owned that property since 1971 as Mr. Buckson can attest to, and if I had received a letter from the Town of Smyrna I would have paid attention because I'm not in the Town of Smyrna. And no one else that I've talked to has received a letter and the attorney says, I've talked to two different attorneys and both say that's a moot issue. It doesn't matter if they held a public hearing because how can they hold a public hearing about property that is not the Smyrna Town limits and is private property. He said it's a moot issue. You can't have a legal action about an illegal action and for them to try to have egress onto our road is an illegal action. So their public hearing is moot. Thank you.

Mr. Banta: Appreciate your time, Dell, thank you.

Mr. Pepper: I have one question. That easement there, how did that, it looks like it was part of Lakeview Estates. How did that become part of Lake Como Woods?

Ms. Tush: Because a developer bought that piece of property.

Mr. Pepper: And he has that annexed...

Ms. Tush: He had that incorporated into Town limits and made a part of Lake Como Woods.

Mr. Pepper: Is that what the 2006 letter or...

Ms. Tush: No the 2006 letter was about the proposed egress.

Mr. Pepper: Okay. So I would imagine they're thinking that if everybody else on that roadway there has access in and out to South Carter Road due to their frontage on Sheridan Lane then by the same virtue they have rights to it as well because they're... I think that's probably what they are thinking, so...

Ms. Tush: Well, my thoughts are if they sent notification it should have been by certified mail. None of us received it and I can assure you, like I said had I received a letter from the Town of Smyrna I would have paid attention.

Mr. Banta: And I would doubt that those people contributed any money to the maintenance or anything for the roadway that's currently there.

Ms. Tush: Oh, no.

Mr. Banta: They haven't done any of that.

Ms. Tush: And what we're also told is that, you know the County says their property line goes within so many feet of the road, the County says their property line doesn't come to the center of the road. And the County told us, I'm talking Kent County Planning, told us that we can block that off. So right now we have it blocked off and so, but it's blocked off right now with temporary stakes and a tape but I think we should put in permanent roadblocks so that they can't access that.

Mr. Banta: Well Jackie said you have retained or at least talking with an attorney. I think and I hate to see you spend that kind of money...

Ms. Tush: Exactly.

Mr. Banta: You've got, in our opinion you have a perfect case and you need to pursue it with vigor.

Ms. Tush: We have a perfect case but nobody wants to talk to us.

Mr. Banta: Well we listened.

Ms. Tush: You listened. Are you willing to write a letter to the Town of Smyrna?

Mr. Pepper: ***INAUDIBLE***

Ms. Tush: Well yeah, but that costs money so... I mean if we had to go that route hopefully we recover legal fees but it's expensive to have to sue someone and like Peggy said we're all, most of us are senior citizens.

Mr. Banta: It would seem to me an official letter on an attorney's letterhead detailing the information that we've talked about tonight and I mean I think we've gathered more information to be utilized. The letter may be two pages but at the end of the day I think somebody in the Town would have to listened to that and make a decision.

Ms. Tush: Well when you talk to the people on Counsel, Mr. Mood has talked to a lot of them because he knows them, they don't even know about it. Their pushing it but Counsel doesn't even know about it. Right now it's being fueled I think by the Planning Department in Smyrna.

Mr. Banta: Well the Planning Department doesn't have any authority. The only people that have the authority...

Ms. Tush: Well exactly, only Counsel has that authority. So if we can get it to get on an agenda and get it that far and push a vote from Counsel that could be the end of it. But it's getting it to get on the agenda.

Mr. Banta: Well Mr. Mood is here, he's a resident of the Town. He can certainly get on the agenda or any other resident can get on there for you then make the plea. And somebody can do it on his behalf but because he's a resident of the Town he can certainly do that.

Ms. Tush: Thank you.

Jim Mood, Smyrna, DE: Lived in Smyrna, homegrown, 84 years. I've owned property out there for 45 years and I think what's somewhat behind this deal, Lake Woods comes out on Sunnyside Road. To go to Clayton, Smyrna Swim Club, Kenton, any of those places west of there they've got to come out on Sunnyside to a traffic light. People don't like traffic. Then they've got to up Carter Road up there if they want to go to the swim club. They want a short cut I think so they can come out of there over and onto Sheridan Lane, out to Carter Road which is a busy road now and go to where they want. The developer would not even answer a phone call or anything. And one last thing, any developer that names streets Trouble and Mischief you got to take a second look. I'm sorry.

