

**MINUTES OF THE KENT COUNTY LEVY COURT
BUSINESS MEETING
KENT COUNTY ADMINISTRATIVE COMPLEX
555 BAY ROAD, DOVER, DE
LEVY COURT CHAMBER, ROOM 203
TUESDAY, SEPTEMBER 25, 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-18-180 **Motion** to approve the Agenda as presented made by Mr. Angel; seconded by Mr. Sweeney; carried by Roll Call vote seven (7) yeas.

PRESENTATIONS

Resolution 3714, Retirement of Diane Lockerman

The following was read into the record by Lorri Tanaka:

Whereas, the retirement of **Diane Lockerman**, an employee of Kent County, State of Delaware, from her duties as Property Specialist III, Department of Finance, Board of Assessment Office, presents a suitable opportunity for expressing the esteem in which we hold **Diane Lockerman**, as a good and faithful public servant.

Therefore, be it resolved that the County of Kent express its' warmest appreciation and thanks to **Diane Lockerman** for the able and loyal manner in which she performed his public duties.

Be it further resolved that this resolution be her evidence of a right to the pension provided by the Kent County Employees' Retirement Program; and that this Resolution be and hereby is incorporated into the official minutes of the September 25, 2018 meeting of the Kent County Levy Court.

M-18-181 **Motion** to approve Resolution 3714 was made by Mr. Angel; seconded by Mr. Sweeney and Mr. Pepper; carried by Roll Call vote seven (7) yeas.

*Diane joined the Commissioners and County Administrator at the front for presentation of the Resolution, congratulatory remarks and photos. Susan Durham added her congratulations as well.

Resolution 3715, Retirement of Robert Bloodsworth

Lorrie Tanaka read the following into the record:

Whereas, the retirement of **Robert Bloodsworth**, an employee of Kent County, State of Delaware, from his duties as Dispatcher II, Department of Public Safety, Emergency Communications Division, presents a suitable opportunity for expressing the esteem in which we hold **Robert Bloodsworth**, as a good and faithful public servant.

Therefore, be it resolved that the County of Kent express its' warmest appreciation and thanks to **Robert Bloodsworth** for the able and loyal manner in which he performed his public duties.

Be it further resolved that this resolution be his evidence of a right to the pension provided by the Kent County Employees' Retirement Program; and that this Resolution be and hereby is incorporated into the official minutes of the September 25, 2018 meeting of the Kent County Levy Court.

M-18-182 Mr. Pepper **Moved** to approve Resolution 3715; seconded by Mr. Angel; carried by Roll Call vote seven (7) yeas.

*Robert met the Commissioners and County Administrator at the front and was later joined by Chief Colin Faulkner for presentation of the Resolution, congratulatory remarks and photos.

Employee of the Month – October 2018

Ms. Tanaka read the following into the record:

Kent County Department Heads have selected **ERIKA J. BRETSCHER** from the Department of Public Safety as the October 2018 Employee of the Month.

Erika has been a Kent County employee since December 2015 and serves as a Paramedic II in the Division of Emergency Medical Services. Her primary duties include treating patients using advanced emergency care procedures and ensuring the high quality delivery of life support techniques. In addition, she serves as the Field Training Officer for her shift responsible for orienting and evaluating new hires, precepting Delaware Tech paramedic students, and conducting continuing education training.

Erika is praised by supervisors for her enthusiasm and initiative. She takes an active role in the Division by serving as the County's representative on the State Protocols Committee which reviews and develops procedures for treatment and medications for consideration by the seven State Medical Directors. Erika's co-workers especially appreciate her eagerness to educate. It is not uncommon to see Erika with new paramedics or paramedic candidates reviewing a piece of equipment or practicing skills on the manikins between emergency calls.

According to Public Safety Director Chief Colin Faulkner, "Erika exhibits a high level of energy that lends itself well to her FTO duties instructing Paramedic students during field training and the quality assurance process. She brings out the best in people, especially on the scene. Her keen awareness of patient outcomes drives her to be the best she can be in every situation. That dedication serves as an inspiration to her co-workers. She is especially deserving of this recognition."

Congratulations Erika on a job well done! Erika currently resides in New Castle County.

*Erika joined the Commissioners, County Administrator and Chief Faulkner at the front for presentation of the award, congratulations and photos.

***All remarks made at the front of the dais were INAUDIBLE.**

INTRODUCTIONS

Kim Crouch made the following introduction:

Good evening, Commissioners. I'd like to introduce to you **Joe Simmons**. Joe was hired August 20th as a Database Administrator in the Department of Administration, the IT Department. Joe most recently worked as a Senior Applications Support Specialist for the State of Delaware. Prior to that, Joe worked for Playtex, formerly known as Energizer, formerly known as Edgewell as a Senior Application Database Developer. He earned his Bachelors degree in Computer Science from Indiana University in Bloomington, Indiana in 1990. Joe brings with him many skills, most knowledge in his database programming in his data base support. And before I turn it over to Joe I just wanted to thank the Commissioners for allowing this new position, approving this new position last year in the budget cycle. And I'd also like to thank Mike Petit de Mange, the County Administrator for recognizing Joe's talent and skills and hiring Joe. One of the areas in the County of IT that we have responsibility for is the on-line payments. Over the last five years we haven't had anyone who could support that but luckily for us it's been running. It's been a fear of mine that it would stop running. And don't you know a month to the day that we hired Joe it stopped running. And of course it had to be when the tax bills are due, when the sewer bills are due and people are going on line to make their payments it stopped running. But fortunately for us we hired Joe and Joe got us back up and running in eight hours. So I want to thank you all for that. With that I'd like to turn it over to Joe.

Joe Simmons: Thank you, like you said my name is Joe Simmons. I'm a Dover resident; I've been living here in Dover for the last 20 years. I think I moved down here in 1994. I married my, in the audience, my wife Michelle, my son and daughter Jessica and Joey. So, I'm a Dover resident and the one thing that I want you guys to know is that I worked for the State, I did some consulting work for the City of Dover also for a little bit. Then I was with Playtex for 18 years so I had a little experience with corporate, State government and local City government and County government. And the reason I choose to work with the County is because of the opportunity. Kent County is growing and with the opportunity to expand, technology as far as the website data base, just to really be on the forefront. And that's why I'm excited to work here, to take us from where we are at now to the future and I see a bright future working with Kim and the department and everybody I've met so far. It's almost like a family; you get so much positive feedback. So I'm really looking forward to doing great things here.

I think the County has a tremendous opportunity to leverage technology not only with data bases and internet but the website and just to realize that things are changing. I was talking to one...Mike on my interview, one of the big things is everybody uses mobile phones now, tablets, different features or functions and I'm just really, really looking forward to taking the County to bigger and better and greater things with IT. Thank you, I'm looking forward to working with every one of you, Commissioners and doing great things. Thanks.

Mr. Banta: Thank you, Joe. Welcome aboard, glad to have you.

Mr. Sweeney: Joe, before you walk away. As a fellow techy, I went through Playtex, I was there for 10 years, 20 years at the State, left and now I'm back at public schools. It's good to see you come aboard. It's good to hear you talk that way. There's a lot of things that many of the Commissioners have shared, that we want to get more public, we want more information available on the internet and I think that from the things you just said and from Kim's direction we look for great things from you. So, welcome aboard.

Mr. Simmons: Thank you, sir.

Sarah Keifer had the honor of making the following two introductions:

Good evening, Commissioners. It's my pleasure tonight to introduce to you **Jon Leishman**. He joined us August 20th as a Planner I in the Department of Planning Services. Jon is effectively beginning his career as a professional planner with us, just this past spring he earned his Bachelors in Urban Planning from the Indiana University of Pennsylvania. Throughout his college career he also served as an Intern at various planning departments. We're very pleased to have him on board and we appreciate the enthusiasm he brings to the profession. Jon currently resides in Sussex County.

Jon Leishman: Hi, I just want to thank you very much and it's an honor to be here.

Mr. Banta: Thank you, Jon. Welcome aboard. Thanks for your time, we appreciate it.

Ms. Keifer: Commissioners, next I'd like to introduce to you **Brian Reed**. He joined us on the 4th as a Building Codes Inspector I serving primarily in Code Enforcement. Brian just retired from Del Tech as an Energy Resource Manager. He comes to us with a great deal of technical expertise including having a Master HVAC license. He resides in Commissioners Buckson's and Pepper's districts. We are exceptionally pleased to have Brian on staff and he seems to have taken very well to the position of Code Enforcement.

Mr. Reed: Thank you all very much for this opportunity. It's been a life changing experience. Thank you.

Mr. Banta: Welcome aboard, Brian. We appreciate that. Thank you.

Chief Colin Faulkner introduced the following two new employees:

Chief Faulkner: Good evening, Commissioners. I'm really happy to introduce **Veronica Dickerson** and Scott Thorne; we'll start with Veronica first. Veronica was hired September 10th of this year as a Dispatcher I in our Division of Emergency Communications. She most recently worked for Millsboro Fire Company as an EMT and for the Harrington Fire Company as an Ambulance Captain and EMT. Veronica holds various certifications including National Registered EMT, Healthcare Provider CPR, CPR Instructor, and Emergency Vehicle Operator. She brings with her several years of emergency services response experience. Veronica currently resides in Commissioners Buckson's and Pepper's districts.

Then I'd also like to introduce **Scott Thorne**. Scott was hired September 10, 2018 as a Dispatcher I in the Division of Emergency Communications. He retired from the United States Air Force after serving the country for 20 years. His last position there, as a Senior Operations Controller, involved identifying emergencies, and coordinating and deploying the appropriate assets. Scott most recently worked for Dawson's Bus Service as a Mechanic and Driver. He brings with him extensive knowledge in telecommunications and monitoring. Scott currently resides in Commissioner Sweeney's and Commissioner Pepper's districts.

Mr. Thorne: I just want to thank you guys for the opportunity and I look forward to retiring in another 20 years.

Ms. Dickerson: I also just want to thank you guys for the opportunity and look forward to a wonderful career with the County.

Mr. Banta: Welcome aboard, Scott and Veronica. We appreciate your time in being here with us and bringing your professionalism. Thank you very much.

PUBLIC HEARINGS

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 that 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 September 7, 2018 edition of the Delaware State News.

PETITIONS FOR CONDITIONAL USE APPROVAL

Mr. Angel:

1. **Application/ Name #: C-18-05/Potts, Jennifer K.;** Applicant/Owner: Jennifer K. Potts & Matthew T. Miller; Zoning District / Proposed Use: RS1 (Single Family Residential) / Home Office (Therapist); Area & Location/ID#: 0.22+ acres on the southern side of Harvest Grove Trail, approx. 735ft. northeast of the intersection with Veli Crossing, described as Lot 178 of Hazel Farm subdivision, northeast of Dover/LC-00-037.04-06-58.00-000

Ms. Keifer: The first application before the Levy Court, C-18-05 is a Conditional Use for a Home Occupation, a professional office. The site is Lot 178 of the Hazel Farm subdivision, northeast of Dover located outside the Growth Zone. The Regional Planning Commission took testimony on this application at their September 6th hearing and at their September 13th business meeting voted unanimously to recommend approval of the application. I'm happy to answer any questions the Commissioners might have.

Public Hearing Open on Application C-18-05

IN FAVOR

Matthew Miller, 730 Harvest Grove Trail, Dover, DE: I'm just here to support my wife, she is currently out of the area on sabbatical getting some much needed rest. She is a mental health therapist. She started 2 ½, three years ago in Annapolis before moving here. We bought this property with the approval...through Ryan Homes who gave us conditional permission that the property could be used as a business. She has since taken on a full case load, she sees somewhere between 25 and 30 clients a week. She sees military, she sees fire, she sees EMS, paramedics. The only real problem we've had recommended to us was parking. We've...between her...my wife and I, we have kind of worked that out where I'm at work the driveway's available; we park her car in the driveway. And she's just trying to earn a living doing what she did, helping people on her own.

Mr. Angel: Is there a parking situation then?

Mr. Miller: A lot of the neighbors were concerned about parking. We have two parking spots in the driveway and we also have...we can fit three cars in front of the house as well. It's a normal public road so cars can come and go, there's no restriction to parking.

Mr. Angel: Is the garage available to put a vehicle in there?

Mr. Miller: Yes, there is a vehicle in the garage.

Mr. Angel: So, there's two extra spots then?

Mr. Miller: Yes.

Mr. Sweeney: The Hazel Farm Board of Directors gave you a letter approving your use of the home as a home occupied business?

Mr. Miller: Yes, they gave us a conditional release pending this board for approval. We had a couple of neighbors who were opposed to it.

Mr. Sweeney: So, in the letter they state you must provide this certificate back from us in 60 days and that was in the middle of May. Obviously you've missed that timeline so my questions would be, is that going to cause a problem with the homeowners association and second, what caused the delay of a few months to get in here?

Mr. Miller: We asked for an extension through the homeowners association and that was granted through the president knowing the timeline of sending out the letter of intent and then going through the entire process. We had asked for that extension through the HOA and they granted that to us.

Mr. Sweeney: Okay, so the HOA has a process that you have to go through in order to get their approval?

Mr. Miller: So they had given us a conditional release or conditional approval for 30 days to start the process and then once we found out the process was going to take over the 60 days they...we asked for another extension. They granted it through today's date.

Mr. Sweeney: Okay, so...but the HOA board themselves are the ones who give that conditional approval, they don't canvas the community to ask how they all feel about it?

Mr. Miller: Correct.

Mr. Sweeney: Do they notify the community that you've requested this through them?

Mr. Miller: We had to send out letters to every neighbor within, I believe it was 200' of the property, and then people came to the first meeting at the beginning of the month to speak against it.

Mr. Sweeney: Okay. Thank you.

Mr. Pepper: Getting back to the parking, I was by there today and it appears that you have one of the smaller driveways in the neighborhood.

Mr. Miller: Yes, sir.

Mr. Pepper: So, it would be kind of...showing your truck there, it would be kind of tight getting two cars in that driveway. But my question to you is, how many licensed drivers do you have in the house and how many cars are at the household?

Mr. Miller: We have four licensed drivers at the house but if there is more than...taking up parking spots we have our children move down the street away from...closer to the empty lots or close over to the pond area where there is adequate parking. So they're not taking up spaces in front of the house and the driveway.

Mr. Angel: I was reading in your documents here that somebody was worried about crime coming in to the neighborhood. I will tell you based on my home occupation in the 38 years where I live I've helped the police nine times solve some crimes, catch the bad guys, take license numbers down. So the fact is that you have somebody coming by, leaving they can make a watch for the neighborhood also. If you don't have a neighborhood watch started I would suggest you get with Mr. Sweeney and look at that because that would be a plus.

Mr. Miller: Yes, sir.

IN OPPOSITION – None

Public Hearing Closed on Application C-18-05

M-18-183 Mr. Angel: I Move to approve C-18-05, no opposition, RPC approval, Staff recommendations 1A through H, homeowners association agrees to once we approve it; seconded by Mr. Sweeney.

Roll Call

Mr. Angel: Yes, as per my motion

Mr. Buckson: I'll be brief. In a matter of consistency for me, I respect your application; I appreciate what you've stated. I just believe simply this, that developments require different levels of scrutiny. You've moved into an area where you have a deed restriction, it's an HOA but it's developer controlled. If they wanted to change it they should have just simply made the changes. So that's the number one reason why and I do think there are some concerns there. Reading the RPC minutes 25 to 30 individuals coming in during the week in an area that's constricted it's just not a fit for me. I respect the request, just not a fit for me at this time, specifics to the deed restriction being number one. So, my vote is no. Thanks.

Mr. Hosfelt: I have problems with it also. I live in a development, I don't know that I would want a business home occupation of any type whether it's this nature or another nature beside me. Although Staff recommended it I still have heartburn with it. For that reason, I vote against it. I vote no.

Mr. Howell: I vote yes. He's coordinated with HOA and if there are any problems they'll have to work it out. But at this point I don't see anything that's debilitating, maybe some inconvenience, but like I said my vote is yes.

Mr. Pepper: I'll have to go along with Commissioner Buckson on this. I was by there today like I stated earlier. It's on a, as you can see from the picture up on the screen there that it's very tight. The driveway from the neighbor across the street is right across the street from their driveway. It's a recipe for bad feelings in the neighborhood especially with the number of cars that they're expecting there per day and the amount of cars that are registered to that household. So I just think it's a recipe for bad feelings and it's just a little too tight. If the house was sitting further back off the road, had more access for off street parking it might be a different story. But I just think it's a little too tight and I have to go along with Commissioner Buckson on this and vote no.

Mr. Sweeney: I'm going to be honest, I didn't know that it was a developer run HOA. But I'm hopeful that your wife sees the value of her business, her business grows and she seeks an office that's away from the residential area. The value she brings to helping the military is something that the military members need greatly so I'm hopeful in a year or so you guys are looking for an office somewhere. But my vote's yes.

Mr. Banta: Based on the recommendations of the Regional Planning Commission, the Staff; no opposition here this evening and I feel pretty confident that with an appointment schedule that she will have that the parking will not be a problem. With that being said, I vote yes.

Roll Call reveals four (4) yeas; three (3) nays. Application C-18-05 has been approved.

2. **Application #/Name: C-18-06** /Rivera, Efrain; Applicant/Owner: Efrain Rivera; Zoning District/Proposed Use: AR (Agricultural Residential)/ Home Based Contractor (Landscaping Business); Area & Location/ID#: 0.69+ acres on the west side of North DuPont Hwy. (Rt.13), approx. 1743ft. north of the intersection with Messina Hill Rd. (Co. Rd. 102), north of Cheswold/LC-00-037.04-01-03.00-000

Ms. Keifer: The next application before the Levy Court is C-18-06 a Conditional Use for a home based contractor's establishment, it's a landscaping business. The site is .69 acre on the west side of Route 13, north of the intersection with Messina Hill Road, north of Cheswold, located inside the Growth Zone. The Regional Planning Commission took testimony on this application at their September 6th hearing and at their September 13th business meeting voted unanimously to recommend approval of the application. Again this is for a home based contractor's establishment, I'm happy to answer any questions you might have.

Mr. Buckson: Just one, can you clarify the conditions set by RPC? Were they...was it hours only, was there a buffering? Forgive me, my packet...I recall it, I visited the site but I wanted to clarify the restrictions if any that were placed on this application.

Ms. Keifer: There were no additional conditions other than what's already established by the code, the hours of operation, the 7 a.m. to 10 p.m. already established by the ordinance. They did not suggest additional conditions.

Public Hearing Open on Application C-18-06

IN FAVOR – None

IN OPPOSITION – None

Public Hearing Closed on Application C-18-06

Mr. Angel: Ms. Keifer, can we strengthen the hours, I mean can we really put some teeth into this so if he decides to start at 5 a.m. like he has...it's been stated in the records or 6:45, can we shut him down then?

Ms. Keifer: Typically what would happen if someone demonstrates noncompliance with the conditions of approval typically we'd bring them back for a revocation hearing, to revoke the conditional use.

Mr. Angel: So we do have teeth in?

Ms. Keifer: Yes.

M-18-184 Mr. Angel: Okay, with that being said I make a **Motion** that we have teeth on this and that there's no...RPC has unanimously approved this, Staff recommendations approved this and no opposition, so I vote yes; seconded by Mr. Sweeney.

Mr. Buckson: Commissioner Angel you made the motion, I'm not opposed to this application. It does not have the deed restriction and it is a residential property, albeit not in a development so it comes differently to me. But there was some opposition. I'll let it be known I'm knowledgeable...the person who has concerns, they were specific to... I think they lose the argument on appearance; it is what it is based on where they are. But the hours of operation, I don't know if it's relevant but it's a 7 to 10 right now window. And I would suspect, I would suggest to you that a person living next door, 10 o'clock may be a little bit of an exaggeration. Would 9 be fair given the fact they are a landscaping company? And it's daytime, daylight savings time that would be about the time it gets dark at the latest. **INAUDIBLE**, I'm making a suggestion. I'm in favor of the application.

Mr. Angel: Mr. Buckson raises a good idea because I wasn't thinking about summer and winter hours. So, the winter hours would be...I would like to say, make it 7:00 p.m.? Well, if it gets dark at 4:30 now, so if he comes in, he's got lights, noise and... I just want to throw it out there or ask Staff for a recommendation.

Mr. Buckson: If I may jump in because I'm the one that stuck my nose in it. The only thing I'm saying is that 9:00 o'clock is kind of a threshold for being somewhat late, that's all. So, anything after that...I'm not...business may not shut down at 7, I get that. So, you do what you want, this is your idea. But since I'm the one that stuck my nose in I was looking at 9 across the board just because for whatever reason 10 o'clock sticks out as being a little bit late when folks are trying maybe to get to bed and that kind of stuff.

Mr. Angel: But still summertime 9 is still pretty light so...

Mr. Banta: You might want to check with the attorney but at this juncture there was a motion and a second, preparing to call a vote... Are you going...if you're going to make a change then as a maker and as a second it will have to be withdrawn and have to make a new motion. What do you choose to do?

Mr. Angel: Well for compliance, just to get through this I'd like to see it changed to 9 o'clock, make it even around the board then.

Mr. Banta: You're withdrawing your motion?

Mr. Angel: I withdraw my **Motion M-18-184**.

INAUDIBLE

Mr. Banta: Mr. Sweeney, withdraw his second.

INAUDIBLE

M-18-185 Mr. Angel: Based on what we just discussed as I said before, RPC approval, Staff recommendation, no opposition and we Move and strengthen to put some teeth in it, closing down at 9, 7 to 9, as long as we got teeth in that, I'm fine. That's my **Motion**; seconded by Mr. Sweeney.

Roll Call

Mr. Angel: Yes, as per my motion.

Mr. Buckson: Yes, as per reasons stated.

Mr. Hosfelt: Yes, based on the reasons given and Staff's recommendation.

Mr. Howell: Yes, based on reasons given.

Mr. Pepper: Yes, all reasons given.

Mr. Sweeney: Yes, all reasons given.

Mr. Banta: Based on the RPC, Staff, no opposition and Mr. Angel's motion, I vote yes.

Roll Call reveals seven (7) yeas. Application C-18-06 has been approved.

PETITIONS FOR CONDITIONAL USE
REQUIRING SITE PLAN APPROVAL

Mr. Angel:

1. **Application #/Name: CS-18-06/Calvert Mechanical Systems; Applicant/ Owner: Becker Morgan Group, Inc. / Calvert Mechanical Systems, Inc.;** Zoning District / Proposed Use: BG (General Business) / Contractors Establishment / Outdoor Storage; Area & Location / ID#: 0.56+ acre fronting N. DuPont Hwy. (US Rt. 13) and Hatchery Rd. (Co. Rd. 154) across from Salt Creek Dr. (the entrance to Fieldstone Village shopping center), approx. 40' west of Liberto Lane, north of Dover/LC-00-047.03-01-18.00-000

Ms. Keifer: The next application, CS-18-06 is a Conditional Use Site Plan for a contractor's establishment with outdoor storage. The site is just over half an acre fronting on both US 13 and Hatchery Road west of Liberto Lane. The site is zoned BG inside the Growth Zone. The Regional Planning Commission took testimony on the application at their September 6th hearing and at their September 13th business meeting voted unanimously to recommend approval of the application. I'm happy to answer any questions you might have.

Public Hearing Open on Application CS-18-06**IN FAVOR**

Steve Fortunado, Becker Morgan Group, 309 S. Governors Ave., Dover, DE:
As I said, my name's Steve Fortunado from Becker Morgan Group here representing Calvert Mechanical Systems. First I'd like to bring a little history to the project. Calvert Mechanical is an HVAC company. They've been in operation for about 27 years. Their primary location is out of Wilmington. They've been very successful at growing business for a number of years now and they would like to move and expand their business down to Kent County. So they've purchased this property earlier this spring. The property at that time had about a 1500 square foot dwelling, it was a house it wasn't used as a house at the time but about 1500 square feet and it had a full basement. Their intent was to utilize that structure for their Kent County hub and they would go through the change of use process, make some associated site improvements but basically the structure itself would remain as is. About one week after they purchased the property they went to have the oil tank in the basement filled so they could use it and something happened where the technician...I guess wasn't paying attention but overfilled the oil tank, cracked the valve and sent over 300 gallons of oil into the basement. The basement had a French drain so all of that proceeded to leak into all the surrounding soil. So this was an interesting...you know, I'm getting ready for a change of use and then I get the call that this happened. So everything was on hold and we really didn't know what was going to happen. The owners went through insurance, DNREC, EPA was eventually called out; a lot of remediation work was put into this, a lot of time and effort and money. And at the end of it, well not the end of it but eventually they realized that they weren't

going to be able to remediate the structure as is, it had to be demolished, the bad soil pulled out and replaced and basically flattened, which is why the pictures you see now have nothing. So this was already starting from quite a hardship on what they thought they were going to have a project open in the spring to do summer and winter business, now here it is almost winter and they are not looking to be...you know, starting up for over a year probably. So, with their project they have now they want to propose...they're proposing a...it's about a 3000 square foot building. This gives about the total square footage they had with the previous building plus the garage so that's why they're looking for that expanded footprint, not really a greater total square foot. There's also a...oh, it's broken. In the back of the property on Hatchery Road you can see there's also an existing garage, it's fully furnished, has water, sewer, electricity and is insulated. And we have a Board of Adjustment approval to keep that, it's within the building setback line off Hatchery Road. Again, Board of Adjustment approved the variance for that to remain in place. Board of Adjustment also granted a variance to allow us to reduce the...what's called the front yard set-back on Hatchery. This project...this site is hindered by two frontages, one of which is arterial, principle arterial and has a 75' set-back. So the Board of Adjustment did allow us to reduce that Hatchery Road set-back to allow for the larger structure and the parking. This project also proposes to close, or really consolidate the two noncompliant entrances off Route 13 and that is going to be a right-in only on Route 13 and then would be an exit only onto Hatchery Road, which is a new entrance. We've met with Del-DOT, we've coordinated the access to this property and they have given us the preliminary blessing on what we show here, as far as entrance. The DNREC remediation is complete and they're ready to go pending this process and formal construction documents and approvals from all the other agencies. With that I would like to open it up to any questions.

Mr. Banta: Steve, I just have one question in regard to the spill. So the driver comes to the house, begins to fill the oil and apparently the tank overflowed the basement. So, was there a sump pump in the basement to pump any of the residues out or did it all go into the drain around it?

Mr. Fortunado: I believe there probably was a sump pump. Oil probably isn't going to flow into it, nearly like water would and even so I would imagine it's geared toward the small leak as opposed to a gush of water that came in. I'm sorry, oil that came in.

Mr. Banta: So is the property in question on County sewer or... Where do you get your water and sewer?

Mr. Fortunado: It is on County sewer and it has a well.

Mr. Banta: Okay, I've been involved many, many times with contaminated soil and I'm just... What's the proximity of this property to the adjacent property, 50 feet...100 feet?

Mr. Fortunado: You're probably...to the property line or the structure property line...I'm not exactly sure where the oil spill happened. The existing structure was about in the middle of the property so maybe less than 100 feet I would say.

Mr. Banta: And do those neighbors...are they on well or are they on public water?

Mr. Fortunado: I don't know if they are on a well or water. I know that it is a business; it's an antique shop so it's not a house. But other than that, I am not certain.

Mr. Banta: My concern would be contamination which happens. But if DNREC has been there and has done their full court press and the soil has been removed and fresh soil brought in I'm assuming it's okay.

Mr. Fortunado: They went through and that's probably part of the reason why they wanted to demolish the building because they needed to be sure that no matter what happened here that the public health safety was addressed.

Mr. Banta: I get it. Thank you.

IN OPPOSITION – None

Public Hearing Closed on Application CS-18-06

M-18-186 Mr. Angel: I **Move** to approve CS-18-06 based on Staff recommendation, the conditional approval, code requirements and recommendations, no opposition and I think it fits the surrounding area since it's Mr. Pepper's and my district. I think it's a good fit, so that's my approval; seconded by Mr. Pepper.

Roll Call

Mr. Angel: Yes, as per my motion.

Mr. Buckson: Yes, based on comments said.

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

Mr. Howell: Yes, based on reasons given.

Mr. Pepper: Yes, based on Commissioner Angel's comments.

Mr. Sweeney: Yes, for all reasons stated.

Mr. Banta: Based on the recommendation of the Regional Planning Commission, Staff, no opposition and Mr. Angel's comments, I vote yes.

Roll Call reveals seven (7) yeas. Application CS-18-06 has been approved.

**PETITIONS TO AMEND COMPREHENSIVE PLAN MAP
AND ZONING MAP**

Mr. Howell:

1. **Ordinance LC18-10, 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 (Ref: Application: CZ-18-05; Applicant / Owner: MKJ Properties, LLC./John H. Ebelein; Proposed Zoning District: BG (General Business); Area & Location / ID#: 39.4+ acres (of which owner is asking that a 5 acre portion be rezoned BG) on the east of South DuPont Hwy. (Rt. 13), located between Plymouth Road and Andrews Lake Road, north of Felton/SM-00-129.01-01-85.00-000)

Ms. Keifer: The next item is Ordinance LC18-10. This is a Comprehensive Plan Map and Zoning Map amendment request. The current Comprehensive Plan designation is Low Density Residential. The proposal is for Highway Commercial. Current zoning designation is AC Agricultural Conservation. The proposal is for BG General Business. The site overall is just under 40 acres; the area of petition is five acres to be rezoned on the east side of Route 13 between Plymouth Road and Andrews Lake Road, north of Felton, inside the Growth Zone. The Regional Planning Commission took testimony on the application at their September 6th hearing and at their September 13th business meeting, citing that the request comports with the overall Comprehensive Plan and it is in keeping with the surrounding area, voted unanimously to recommend approval of the rezoning. I'm happy to answer any questions you might have.

Public Hearing Open on Application LC18-10

IN FAVOR

Jonathan Street, Becker Morgan Group, 309 S. Governors Ave., Dover, DE: President Banta, Commissioners good evening. This is going to be the Chris and Jon show here this evening with this power point. The application before you is the Forrest Fence Company located down between Barratt's Chapel Road and Andrews Lake Road on the east side of 13. I've got a little power point here. Forrest Fence is the property on 13 itself, and the rezoning application before is just behind as Staff reported. In the area itself you've got other businesses, you've got the self-storage area across the street, you've got the Delaware Auto

Exchange and you've the Burke Equipment Company in the area itself. Part of the burden for rezoning, as you may know we've got four areas that we need to comply with. One is, excuse me I'll paraphrase it, the Comprehensive compliance, change in character of the neighborhood...of the area, access to public facilities or what I like to call harmony of the neighborhood itself. With this brief power point I'll try and...I will convince you of that hopefully. With regard to Comprehensive Plan compliance the rezoning itself, in the Comprehensive Plan of the area itself is designated for Commercial development and the entire area itself is completely within the Growth Zone. As far as County Code, we're changing character of the neighborhood, we've had re-zonings in the past including this parcel itself. The back parts or the back 40 acre parcels will be purchased by our client and again the petition is only for the portion of five acres adjoining his parcel. But the main change in character is this 40 acre parcel. I think back in 2003 it went from a farm field to what is now overgrown. But if you look at the slide you'll see basically it's an overgrown forest, trees and whatnot. And in keeping with that as well, the next slide, access to public facilities we are adjacent to sewer districts, we have access to sewer although we are not applying for sewer itself. The rezoning is specifically looking to expand his business. He's been in operation for some time and he's looking to basically take this five acres in the back and expand his yard. They manufacture and store their fencing that they install onsite and they're looking to expand that. Additionally, the next slide or the next piece of the slide is harmony of the neighborhood. All along 13 in this area is BG zoned, there are businesses and we're proposing to rezone this obviously from AC to BG. One added note is that because this is the front, a front five acre portion of this 40 acre parcel screening from the neighbors. Their neighbors are acres and 100s of feet away from them so they'll be adequately screened on the parcel itself. We're in receipt of Staff's comments and we're in receipt of the PLUS comments that were issued and take no issue with that. With that I'll take any questions.

IN OPPOSITION - None

Public Hearing Closed on Ordinance LC18-10

M-18-187 **Mr. Howell:** I Move that we approve Ordinance LC-18-10 which is 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 Volume II, Chapter 205 Zoning, Article III, Section 205-8 and Section 205-9, and Article XXVIII (changes and amendments) effective December 1, 2000 as amended; seconded by Mr. Sweeney.

Roll Call

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

Mr. Buckson: Yes, reasons stated.

Mr. Hosfelt: Yes, for the reasons given.

Mr. Howell: Yes, reasons given.

Mr. Pepper: Reasons stated, yes.

Mr. Sweeney: Yes, for reasons given.

Mr. Banta: Based on the recommendation of the Regional Planning Commission, Staff and no opposition here this evening, I vote yes.

Roll Call reveals seven (7) yeas. Ordinance LC18-10 has been approved.

**KENT COUNTY ORDINANCE REGARDING
SITE PLAN EXEMPTIONS**

Mr. Buckson:

1. **Ordinance LC18-09 Site Plan Exemptions**, An Ordinance to amend Kent County Code, Vol. II, Chapter 187, Subdivision and Land Development, as amended by amending §187-44 Exemptions by adding an exemption for minor expansions of existing development.

Ms. Keifer: Ordinance LC18-09 is a text amendment. It creates an exemption for small expansions up to 5000 square feet of impervious cover, small expansions of existing uses. So what the exemption means is formal engineered drawings aren't recall, formal review by the Planning Commission isn't required, it would all be handled administratively. There's flexibility in compliance with design criteria. There's also flexibility, there's discretion in requiring letters of no objection from outside agencies. The ordinance itself is intended to make it easier for small businesses to complete smaller expansions without the added cost of a formal process. It's actually discussed in the recently adopted Comprehensive Plan so this will be the first ordinance to implement the recommendations in that plan. The Regional Planning Commission at their September 13th business meeting did vote unanimously to recommend approval of the ordinance and Staff would suggest that this would be a substantial benefit to small business owners. I'm happy to answer any questions you might have.

Public Hearing Open on Application LC-18-09

IN FAVOR - None

IN OPPOSITION – None

Public Hearing Closed on Application LC-18-09

M-18-188

Mr. Buckson: I am happy and pleased to make a Motion to approve this. I want to compliment Staff for bringing this out as a way to help stimulate or to support I should say economic development in the County. It's a small thing but it's a big thing if you're that local business owner. So with that I make a Motion we approve Ordinance LC18-09, Site Plan Exemptions, it's an ordinance to amend Kent County Code, Volume II, Chapter 187, Subdivision and Land Development, as amended by amending 187-44 Exemptions by adding an exemption for minor expansions of existing development; seconded by Mr. Angel.

Roll Call

Mr. Angel: Yes.

Mr. Buckson: Yes, per my comments.

Mr. Hosfelt: Yes.

Mr. Howell: Yes.

Mr. Pepper: Yes.

Mr. Sweeney: Yes, and to mimic what Mr. Buckson said thanks to Staff for continually look for ways to help small businesses out. We knew we talked about it and Mr. Buckson thanks also for your leadership as chairman and continuing to push for these things.

Mr. Banta: Based on the recommendation of the Regional Planning Commission, Staff approval, no opposition and Mr. Buckson's effort on behalf of this most eloquent ordinance, I vote yes.

Roll Call reveals seven (7) yeas. Ordinance LC18-09 has been approved.

PUBLIC HEARINGS CLOSED

OLD BUSINESS – None

NEW BUSINESS - None

OTHER BUSINESS

M-18-189

Mr. Pepper: **Move** to go into Executive Session immediately following the Committee Meetings of October 3, 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. Banta: I will just say one thing on behalf of the Commissioners that were at the Farm Bureau dinner last night. It was very well attended and Mr. Buckson, in your behalf, in your behalf I made a public comments in regard to your truck which had broken down adjacent to the Blessing farm...or Cartanza, and that was received with a lot of acrimony and people were excited by that. It was a great dinner it was great being there and great for Mr. Pepper and Mr. Sweeney to take care of the resolutions.

Mr. Sweeney: Just to add to that, when Bobby Killen and his family stood up front and you took away all of the elected people and those who supported the elected people in the crowd there might have been 12 people there. There was 35 Killens there...34 Killens that stood up. Those are the ones that got up. There were others that wouldn't get up in front. It was 34 people that got up and stood in front of that crowd.

Mr. Petit de Mange: I have it on good report that someone among us is celebrating a birthday tonight. And in keeping with Levy Court tradition we usually serenade that individual. If you would lead it off, Mr. President.

All those present joined in heartfelt rendition of Happy Birthday to Mr. Hosfelt.

PUBLIC COMMENTS - None

COMMISSIONER COMMENTS – None

M-18-190 **Motion** to adjourn by Mr. Sweeney; seconded by Mr. Angel; carried by Roll Call vote seven (7) yeas. **8:24 p.m.**



Brenda Wootten
Kent County Clerk of the Peace