

**MINUTES OF THE KENT COUNTY LEVY COURT
REGULAR BUSINESS MEETING
KENT COUNTY ADMINISTRATIVE COMPLEX
555 BAY ROAD, DOVER, DE
LEVY COURT CHAMBER, ROOM 203
TUESDAY, JUNE 10, 2025**

Call to Order

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

Invocation

The Invocation was led by Commissioner Pepper.

Pledge of Allegiance

The Pledge of Allegiance was led by Commissioner Angel.

Moment of Silence for our Troops

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

Roll Call

Allan F. Angel	Commissioner
Jeffrey W. Hall	Commissioner
Paul Hertz	Commissioner – Via WebEx
Terry L. Pepper	Commissioner
Robert Scott	Vice President
George W. Sweeney, Sr.	Commissioner
Joanne Masten	President

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

ADOPTION OF AGENDA

M-25-141 **Motion** to adopt agenda as presented made by Mr. Angel; seconded by Mr. Scott; carried by Roll Call vote seven (7) yeas.

Public Comments on Agenda Items other than Public Hearing Items

Note: Public Comments for Public Hearing Item(s) will be during their public hearings. – None

Consent Agenda 25-09

(Items on the Consent Agenda are considered routine and/or non-controversial and will be acted upon by a single roll call vote of the Levy Court. There will be no separate discussion of these items unless a Commissioner so requests, in which event the items shall be removed from the Consent Agenda and considered separately under New Business.)

- Approval of Levy Court Meeting Business Meeting Minutes of Tuesday, May 13th, 20th and 27th, 2025;
- **Action items from June 3, 2025, Workshop:** Building Inspection and Plan Review Contractual Services; Housing Rehabilitation Project Change Order $\geq 40\%$ of Base Contract; Bowers Fire Company Boat Lift; Library Advisory Committee Bylaw Update Review

M-25-142 **Motion** to approve Consent Agenda 25-09 made by Mr. Angel; seconded by Mr. Scott; carried by Roll Call vote seven (7) yeas.

PUBLIC HEARINGS - None

OLD BUSINESS

Mrs. Masten:

Resolution TABLED at the Business Meeting of May 27, 2025. Lift resolution from TABLE, then proceed: Resolution 4108, A Resolution upon a proposal to extend Kent County Sewage Disposal District No. 1 pursuant to Section 4606, Chapter 46, Title 9 of the Delaware Code, as amended - Garrison Lake V - Hovanian Properties

M-25-143 **Motion** to lift Resolution 4108 from table made by Mr. Scott; seconded by Mr. Pepper; carried by Roll Call vote seven (7) yeas.

Craig Eliassen, County Attorney: What I did after...two weeks ago this came up at public hearing I went back to the fall and kind of started at the beginning, the beginning for us at least. And I looked at the entire public record at that time, RPC and Levy Court as it relates to the zoning change. Looked at all of the submissions of the various interested parties and, at that point I then reviewed the testimony from the public hearing just to make sure that I had everything nailed down. And then and finally, at that

point, I consulted the Erica Sefton memo to the RPC, which covered all of these points, was very timely submitted to them as part of their proceedings. And that's a privileged document, nevertheless, I reviewed it in detail after having reviewed the public record myself, and I feel I was unbiased in my conclusions because I really didn't know what exactly Erica Sefton had concluded, but as it turns out, I agree with her as to every particular. So, it seems to me that there is no impediment whatsoever to disrupt your consideration of this matter that is before you. This is a garden variety application to extend sewer into a new area, and we're all familiar with the requirements in Title 9 as it relates to that, and we also are well aware of what the Public Works professionals for Kent County feel about the merits of the extension. So, I have no comments on the merits of the extension; that's your job, not mine, but there is no impediment at all to proceeding at this time on this issue. And I would just mention specifically that issues two weeks ago were raised regarding the status of the trustee, Young, Conoway, Stargatt and Taylor, a really prominent Delaware law firm, whether or not they had any issues in terms of the proceedings in the court of chancery. Also, the power of attorney that was discussed in detail two weeks ago, I've concluded that those are all Chancery Court issues, you know, that none of those issues are in our lane. Nevertheless, I agree with Miss Sefton as I stated a moment ago that those were Chancery Court matters that were resolved, you know, to the satisfaction of some, to the dissatisfaction, certainly of others. The notion of a title error was raised and again, we're not here to consider the quality or lack of quality of the title of this particular sewer extension again, that could be the subject of a future Chancery proceeding perhaps. And then finally, I'm confident that all of the owners are listed in the preliminary report of the Public Work staff such that the notice to the parties that are concerned has been properly carried out.

Mr. Sweeney: So, counselor, given that, my property lies on Moose Lodge Road, directly adjacent to the new Savannah Farms subdivision that is being put in by D.R. Horton. So right now, D.R. Horton could come in front of us and ask for a sewer extension that would require pipe to go through my yard. There's no easement, my property, 100% my property, but D.R. Horton could ask for a sewer extension through my property.

Mr. Eliassen: But of course, Savannah Farms, as I understand it, is largely town of Camden and a small part is in the town of Wyoming, correct?

Mr. Sweeney: They both are, one's in Wyoming, the other is in Camden. But the hypothetical is that if they wanted to go across my road to the Larrimore property for a subdivision they could technically say, well, the house is right there in Savannah Farms, we just go through this property, and we can connect across the road and provide sewer to the next subdivision that comes along.

Mr. Eliassen: Well, I think the, you know, Public Works staff would be called upon to address the various issues in Title 9, Chapter 46, you know, is the extension satisfactory, is it sufficient. Are the property owners within the proposed district benefited? Is it in the public interest? Findings like that, that I suppose reasonable people could disagree on, but that's the standard that's in Delaware code and we have a preliminary report. It doesn't appear that on this record there's any issue as it relates to any of those factors, and I would just suggest that you limit your review to those Title 9 factors.

Mr. Sweeney: Thanks.

M-25-144 **Motion** to approve Resolution 4108 made by Mr. Scott; seconded by Mr. Pepper; carried by Roll Call vote six (6) yeas; one (1) (Sweeney) nay.

NEW BUSINESS

Mr. Pepper:

Three (3) year Contract Award for Independent Certified Public Accountant's Audit Services

Mr. Pepper: You have in front of you a history plus a synopsis. Unless there's any questions I'm prepared to make a motion. Susan, do you want to add anything since you walked all the way up here?

Susan Durham, Finance Director: I don't need to add anything; just if you have any questions.

M-25-145 Mr. Pepper: I **Move** to award the Independent Certified Public Accountant's Audit Services Award to Barbacane, Thornton & Company LLP for audit services for fiscal year 2025 in the amount of \$71,500, fiscal year 2026 in the amount of \$72,500 and fiscal year 2027 in the amount of \$75,000 in accordance with the specifications listed in RFP 25-FIN-01 and subject to all terms, conditions, and requirements provided therein. The funding source for each audit will be the adopted budget for audit services for the year following the fiscal year being budgeted; seconded by Mr. Scott; carried by Roll Call vote seven (7) yeas.

Mr. Sweeney:

1. **Resolution 4122**, A Resolution calling a Public Hearing upon a proposal to extend Kent County Sewage Disposal District No. 1 Felton Area - Jarrell Ridge Property

M-25-146 Mr. Sweeney: **Move** to approve Resolution 4122, a Resolution calling a public hearing upon a proposal to extend Kent County's Disposal District

No. 1 Felton Area – Jarrell Ridge property; seconded by Mr. Scott; carried by Roll Call vote seven (7) yeas.

2. Introduction of **Resolution 4123**, A Resolution upon a proposal to extend Kent County Sewage Disposal District No. 1 pursuant to Section 4606, Chapter 46, Title 9 of the Delaware Code, as amended - Felton Area - Jarrell Ridge Property for Public Hearing on Tuesday, June 24, 2025, at 7:00 p.m.

Mr. Angel:

Introduction of **Ordinance LC25-12**, An Ordinance to amend the Kent County Code to establish a Graduated Cost Share for Retiree Medical Coverage for Public Hearing on Tuesday, June 24, 2025, at 7:00 p.m.

Mr. Hall:

1. Introduction of **Ordinance LC25-16**, Short Term Rentals - An Ordinance to amend Kent County Code, Vol. II, Chapter 205, Zoning, as amended by revising Article VI – Conditions of Approval, §205-68, Residential Uses, Item I. Short-term rentals to modify the conditions of approval by removing the minimum lot size and owner occupancy requirement. for Public Hearing on Tuesday, July 29, 2025, at 7:00 p.m.
2. Introduction of **Ordinance LC25-14**, 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: CZ-25-02, Burke & Burke Properties LLC for Public Hearing on Tuesday, July 29, 2025 at 7:00 p.m.

OTHER BUSINESS

- M-25-147** **Motion** by Mr. Scott to go into Executive Session immediately following the Workshop/Committee Meetings of June 17, 2025, 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. Angel; carried by Roll Call vote seven (7) yeas.

INFORMATION ITEMS

Mr. Angel: Yes, just a reminder Thursday night we have our DAC meeting for the three counties. Just a reminder, 5:30.

Mr. Hertz: I have a question for Mr. Eliassen. Was that you in that picture of the 1975 State Champions for CR?

Mr. Eliassen: That was me.

Mr. Hertz: Okay, I thought it was.

Mr. Eliassen: Long ago, thank you.

Mr. Sweeney: Hasn't changed much, has he?

Mr. Hertz: Not too much. Did you make the reunion last Sunday?

Mr. Eliassen: I did. We had a blast.

Mr. Hertz: Good deal. Congratulations.

Mr. Eliassen: Thank you, sir.

Mr. Hall: Just for the information of the commissioners, there was a request for an abrupt legal local government meeting this Thursday so I can't attend the Association of Counties to address whatever the issue is.

Mrs. Masten: Thank you.

PUBLIC COMMENTS

Mrs. Masten: Okay, I have an email that I received from Fred Neil I think most of you know Mr. Neil who's on the Dover City Council. He would like me to read this into the record and after that I will ask for any public comment. Please hold.

“To the Honorable Members of the Kent County Levy Court from Fred Neil, 3rd District, Dover City Council. Reference, the disruption of the peace, quiet and sleep of my neighbors and my Wild Meadows community by the abuse of loud music coming from the periodic AfterFly music events. Our zoning laws recognize the nature of what will exist in that area, even if we carve out a section to provide retail or services that would enhance a residential area. We even permit temporary use of land which provides benefits for such things that allow raising funds for nonprofits which benefit the public at large. Thus, a church carnival or a civic fund-raising event such as a barbecue may be permitted on a regular or on an annual basis. As an elected official I believe it reasonable to assume that those who sponsor the event and attend the event in a residential neighborhood will respect the privacy of the neighborhood. Disruption will be for a short period of time. AfterFly events are the anthesis of what

a charitable event that respects the nature of a zoning permitted. It is hell for the adjacent neighbors as patrons trespass and use the neighboring property as a public restroom facility. Unless the Kent County Levy Court wishes to pay for sound monitoring 24 hours a day during the period of time of the event it is impossible to catch when the sound breaks the level that the law permits. When that noise travels over the invisible line that separates the City of Dover from Kent County and causes my neighbors to call me to complain I don't need a measurement instrument to know that AfterFly has broken the law. All of us in Wild Meadows are Kent County residents, at least that is what my tax bill says. AfterFly is an outlier in the charity fundraising category permitted due to the frequency of its' event making it a business in a residential zoned area. The manner is operated 24 hours based on multiple days. The excess of lighting and the audience it attracts has no regard to trespassing on neighboring properties. I'm a firm supporter of events occurring at the speedway property across from Persimmon Tree Lane that helps the economy of Dover, Kent County and Delaware. Concert events from now quiet FireFly to guest musical groups that appear, use sound engineering to direct the sound away from the residential areas. In addition, music ended at 11 p.m. There is no reason why AfterFly's sponsors cannot use a proper venue and not on this lawn. There are enough differences between other charitable events that a well written ordinance can't cure."

It is signed by Fred Neil.

William Lane, 546 Wheat Drive: Okay, I'll get to the point very quickly and that's to say what Fred said. I'm one of the homeowners that lives in Wild Meadows, and I got the chance to experience not only this year but previous years the music that is put out, not only during the day, but also going up to 11:00, 12:00 at night. Wild Meadows is a senior citizen community. We pay our taxes, we be good citizens, we support things. All we ask is for some peace and quiet that is not above the level that is allowed. I mean to me it's kind of cut and dry. You got a level here...and he's here. I can sit in my house and feel the windows rattle from the base. In my general opinion, and I, believe me I have no background in music, but I think he's got some new instruments. And, you know we've put up with this for a few years and everybody says, yeah, it's a problem and we ought to do something. Well, I was hopeful that we would have a couple more people here than Mary and myself, but since we are a body of two, we're asking, let's do something about it. Whether it's within the State Police, whether it's in the Delaware resources, whatever department it is or whatever group of departments. Let's do something about it and moving... I...worse than us are the people along Persimmon Tree Road. I don't know how they put up with it unless they leave town. And that's a shame. So, commissioners I beg of you to really give it some thought, and closing down. Let him move somewhere else or getting back to a level that is

tolerable to living in the area. Thank you very much and have a good evening.

Mrs. Masten: Thank you, sir. Is there anyone else who wishes to offer any public comment?

Mary McLaughlin, 705 McGinnis Drive, Wild Meadows, Dover, DE: As was stated, this has been going on for a couple of years. This year seems to be not so much that I can say that the music is much louder but the base actually...with all windows closed and doors and everything closed up as much as I could, it was like someone was playing a base in my house. I did not ever know that there was a way that we could state this to anyone that could help us until this year. And I earnestly ask you, please, if there's anything you can do to help us, it would be really, really appreciated. Thank you so very much.

Mrs. Masten: Thank you.

COMMISSIONERS' COMMENTS

Mr. Angel: This has been an ongoing issue for us for long before a lot of us were sitting on this board. I just wanted to say that I represent the people in my district well and it is unnerving that when we had somebody that would go out and do a sound check with nothing going on and then come back during the evening or early morning with something going on, it was actually lower on the noise recorded, which does not make any sense to me. So, I just want to get that on the record because I own a sound attenuator so I can take my own before and after too. But even sitting on somebody's back porch with my fingers in my ears because of the noise, not like that in the daytime when I was there. But also, what I wanted to bring up are the calls I got. We lost credibility, because they don't want to come here and listen to...they don't want to give *Inaudible because they don't do anything. It's gotten to the point now where our credibility is at risk with a lot of our residents in this area because of the...how long it's been going on. And I will tell you in the 12 to 14 years, however long this has been going on, he's grown. We've given him permits. I used to come in after a meeting, after an event and talk to our staff, there was no complaints. None were reg...nobody called in and complained. There was after the fact, they didn't even register my complaints on behalf of my residents which I find that deplorable in my eyes. I just want to get it on the record, so we have clear understanding. So, and the people that live next door tonight they could not be here because they're having...at a graduation out of state, and they were supposed to give me some information. I did not get it, but I promised I would bring up...bring it up to them because when I was talking to her on the phone her voice was so shaken for what they went through that they

even mentioned about if we have to be forced out of our homes because of the noise and what's going on, you all should pay for our hotel bill, to go someplace which we shouldn't have to do. Which I know that's not a reason, but I said I would bring it up because they brought it up to me. So, I will tell you each event that he has held has gotten bigger, he's got a stage, he's got a pool, he's got camping, he's got lights now which aren't even supposed to be utilized as well as the noise and the slamming of the port-a-potties day and night all night long. It is un-Godly. Unless you're there you wouldn't understand. I've been there until quarter of six in the morning with my neighbors there and the AfterFly or FireFly was going on at that time, but I couldn't hear the AfterFly or the FireFly because of the AfterFly. So, we need to do something not just for them but across the board for any of our constituents that run into these issues. People need to sleep because this is a 55+ community about ¼ a mile down the road. Medical, medicines, their sleep's interrupted. I'm learning as I get old too my sleep gets interrupted too for natural causes but when it's not natural it affects your daily living. So, I just want to bring up those issues so it's on the record and it can be discussed amongst the people when they go back that we did have that discussion in a public meeting. So, I'm just sorry that some of them didn't want to come because of what I was hearing. You don't do anything. You won't do anything. Why come? So, there it is. Thank you.

M-25-148 **Motion** to Adjourn made by Mr. Scott; no second; carried by seven (7) ayes. **7:34 p.m.**


Brenda A. Wootten
Clerk of the Peace
Kent County