

MINUTES

COMMISSIONERS OF BRIDGEVILLE APRIL 9, 2007 – 7:00 P.M. TOWN HALL

I. CALL TO ORDER

The meeting was called to order by President Joseph Conaway at 7:00 P.M. Present: Commissioners Patricia Correll, Earl Greason, William Jefferson and Town Manager Bonnie Walls. President Conaway asked the participants to join in a moment of silence for Mrs. Helen Beckert, who passed away several days ago. She was the wife of a long-time Bridgeville physician, also deceased; Dr. Beckert. The meeting then began with the flag salute and Lord's Prayer.

II. QUORUM PRESENT

President Conaway reported a quorum was present to conduct the business of the Town of Bridgeville. Commissioner Sipple has been detained due to a dentist's appointment.

III. APPROVAL OF MINUTES

Minutes of the special Commission meeting held on March 1, 2007 and minutes of the regular monthly Commission meeting held on March 12, 2007 were presented for approval. Commissioner Correll made a motion to approve the minutes as presented. Commissioner Jefferson seconded the motion. Motion carried.

IV. CORRESPONDENCE

Town Manager Walls reported receipt of a letter from the Kent County Society for the Prevention of Cruelty to Animals showing the fourth quarter report for Animal Control patrols in the Town of Bridgeville. The SPCA has done an excellent job for the Town.

A response was received from the Delaware Department of Transportation concerning the Town's letter requesting that directional signs in front of Town Hall be re-located. Their reply included an offer to have a staff member complete an investigation of that request. Another letter has been received since then stating that, based on their review of the signage, they will not consider re-location. President Conaway advised there are better ways to place the signage and he would like to pursue the matter. He requested that Town Manager Walls contact Mr. Meyer and Mr. Weiser from DelDOT and request a meeting at Town Hall for further discussion with the Commissioners' approval. Hearing no objection, Town Manager Walls will set up a meeting with the gentlemen.

APP-A
A letter was received from the National Arbor Day Foundation congratulating Bridgeville on being named a 2006 Tree City USA. The Town will be presented with a Tree City USA flag and other materials in the near future.

The quarterly report from Kent-Sussex Industries, Inc. and the March 2007 School District newsletter are available for review.

The Child Care Association of Sussex County has written to advise that they will be holding a meeting concerning children learning to use the computer as a tool to improve learning on April 18th at Easter Seals in Georgetown at 12:00 P.M. They also advised of an Early Childhood Education Day at Legislative Hall in Dover on May 16th at 1:30 P.M.

A donation request has been received from the Sussex County Salvation Army. President Conaway advised the Commissioners consider all requests together during budget talks.

A letter has been received from the Kiwanis Club of Bridgeville advising the Community Prayer Breakfast will be held Saturday, May 5th at 8:00 A.M. at the Union United Methodist Church. The cost to sponsor a table is \$75 and includes 8 tickets. The Commissioners have sponsored a table for the past several years and agreed to continue. Town Manager Walls will make the arrangements. This is the same day as the Town-wide Yard Sale.

V. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE

Finance Director Savage was not in attendance; Town Manager Walls advised the accounts payable are standard bills. Bills to be approved total \$140,548.11. Commissioner Jefferson made a motion to pay the bills. Commissioner Correll seconded the motion. Motion carried. President Conaway advised the Town's cash on-hand as of April 2nd was \$646,906. Due to a change in the way we report our escrow accounts, we have \$485,370 in the accounts plus savings in other accounts for a total of over \$500,000. It is significant that our property taxes are almost at 100%, as quarterly taxes have exceeded projections. The interest income is up 325%. During the first three quarters of the fiscal year, the Town of Greenwood consistently exceeded their quota in sewage. When the new wastewater plant comes on line the contract will need to be re-negotiated, as the Town of Bridgeville will not subsidize Greenwood's sewage needs due to an outdated contract. The contract was originally signed for 40 years and we are less than 20 years into the contract. The Town electric bill is down; however, the gas bill has increased approximately 11%. Transfer tax revenues are currently at 86% of where they should be, \$439,923. The Town should receive over ½ million dollars in transfer taxes this year. President Conaway reported the Town saved \$10,000 in snow removal supplies which were not needed this past winter.

VI. DEPARTMENTAL REPORTS

Reports are available to the public. Building permits for March totaled 26; permits are picking up, with the majority of activity still at Heritage Shores. The results have not been received concerning NPDES violations for March. Town Manager Walls advised the Town had accepted the low bid from Hertrich for a 2007 pickup truck last month and were advised the truck had been sold.

Per President Conaway, Mrs. Walls accepted the low bid from Preston Ford for a 2008 truck. Delivery will be 7-8 weeks from the order date. President Conaway advised \$280,000 was written in traffic fines, but only \$61,000 (22%) has been collected. Usually we receive 33% and it usually takes six months to receive it. Police Chief Parsons reported there was a change in the system in the fall and ticket money is now mailed to Philadelphia instead of Dover. The money must come back through the Delaware court system before the money reaches Bridgeville. President Conaway requested an inquiry be made to let the state know we are concerned about the excessive time to receive traffic fines. It was suggested the Town talk to the head magistrate, Mr. Davis. It was reported the Wastewater Treatment Plant has already reached the 100 mark of months with no NPDES violation. The Commissioners requested that the Public Works staff be recognized for this achievement.

Commissioner Sipple arrived at the meeting at 7:20 P.M.

VII. CITIZEN'S PRIVILEGE

There were no questions or concerns from the residents of Bridgeville.

VIII. TOWN MANAGER'S REPORT

Town Manager Walls reported that on March 14th, Patrolman First Class Chad Spicer stopped a vehicle for speeding. While gathering necessary information he noticed the nervousness of the driver and discovered he was operating a vehicle without a license. The driver consented to a search of the vehicle, revealing 5.2 pounds of suspected marijuana, 208 grams of suspected powder cocaine and other drug paraphernalia. The driver and passenger were arrested and committed to the Department of Corrections. The Town congratulates Officer Spicer. Police Chief Parsons commented Officer James is learning quickly to sniff out drugs as well. President Conaway asked about the new police recruit. Chief Parsons and Public Safety Director Chafinch responded that everything is going well.

The Community-Wide Yard Sale is scheduled for Saturday, May 5th from 7:00 A.M. at houses throughout Town.

Clean-Up Day is scheduled for Saturday, May 12th. Items need to be curbside by 6:00 A.M. This is an opportunity to clean yards, sheds, etc. before the Town Code Enforcement Officer places penalties on property owners. Homeowners with trash violations will receive a green doorknocker with details of the Clean-Up Day. This is their last opportunity to bring their property up to code. Posters are being placed around Town with pick-up details. There will be a scrap metal container at Town Hall and large limbs can be taken to the wastewater treatment plant.

Town Manager Walls met with representatives from Heritage Shores regarding a potential Fourth of July celebration. Details will follow.

On March 24th a Court of Appeals was held to hear concerns and comments regarding Town property assessments with no one in attendance.

The "Spring into Health" Community Walk was held on Saturday, March 31st. It was very successful with four communities participating: Laurel – 113, Georgetown – 40, Seaford – 87 and Bridgeville – 150+. Bridgeville will receive a trophy for having the most participants. Town Manager Walls thanked Fire Chief Jack Cannon for providing standby fire equipment for the event; Wayne Morton from Mercantile Peninsula Bank for sponsorship of t-shirts; Bridgeville Police Officer Spicer for his presence and participation; and the Woodbridge School District staff for their organizational efforts.

In conjunction with Nemours Health program, the week of April 23rd – 29th has been named "Do More, Watch Less" Week. This program will encourage young people to "do more" outside activities and "watch less" TV and play less computer games.

The State Department of Labor Summer Youth Program is again accepting applications for summer youth positions. An application has been submitted by the Town to hire one youth. In conjunction with this program the Town sponsored a separate program last summer employing two students. Town Manager Walls asked the Commissioners for their inclination this summer. The cost last summer was under \$1,000. President Conaway suggested Town Manager Walls prepare a budget for this summer and the Commissioners will consider the proposal.

Police Officer James accidentally put his arm through a glass door at the Police Department. He had eight stitches and is right back to work with a sore arm.

Commissioner Correll extended the Commissioners' appreciation to Town Manager Walls for her time and efforts to help organize the Community Health Walk. Commissioner Correll commented the event was very well organized and went very well.

Commissioner Sipple reported the trash in the field at Route 13 and 404 has been picked up. Apparently Mr. Addison Tatman had the fields cleaned up. Commissioner Sipple is still seeking a source in the high school for ongoing clean-up at the location. She also intends to contact the trash company that services the properties about littering.

IX. OLD BUSINESS

A. Acceptance of Certificate of Referendum Vote Bridgeville Holdings, L.L.C. and 633 Ventures L.L.C.

Town Manager Walls presented a Certificate of Referendum Vote from the Saturday, March 24, 2007 Referendum, with voting from 10:00 A.M. to 2:00 P.M.

52 Votes were cast for the Issue
12 Votes were cast against the Issue
The issue was approved.

Commissioner Jefferson made a motion to accept the Certificate of Referendum Vote. Commissioner Sipple seconded the motion. Motion carried.

B. Second Reading and Public Hearing Adopting Ordinance A07-1, Fee Increases for Variance, Zoning & Conditional Use Hearings

The Public Hearing was opened by President Conaway at 7:32 P.M. The Commissioners intend to amend Chapter 128 of the Town Code to raise the fees for variance, zoning and conditional use hearings from \$300 to \$500, due to the costs associated with preparation for the hearing. He advised our attorney charges a minimum of three hours at \$125 per hour and the Town is required by law to advertise all public hearings. Raising the fee will allow the Town to avoid paying the cost for a property owner's request for a change in zoning, etc. President Conaway opened the floor for public comments. Hearing none, he asked for comments from the Commissioners. Hearing none, the public hearing was closed at 7:35 P.M. Commissioner Correll made a motion to adopt Ordinance A07-1. Commissioner Greason seconded the motion. Motion carried.

C. Second Reading and Public Hearing Adopting Ordinance A07-2, Charging a Fee for Sewer Usage in Excess of Allocation

The Public Hearing was opened by President Conaway at 7:36 P.M. This Ordinance resolves a problem with property owners (industry, commercial, or non-Bridgeville users) who commit to a certain volume of wastewater, with an appropriate impact fee, and exceed the quota. They do pay for sewage treatment, but the additional water could disrupt our service and additional impact fees are necessary. The Ordinance institutes a penalty of \$250 per EDU in excess of the agreed-upon allocation for an industrial, commercial or non-Bridgeville user. It insures that we only treat wastewater. President Conaway opened the floor for public comments. The term "EDU" was defined as "equivalent dwelling unit," usually defined as six appliances within a house (i.e. – a sink, shower, tub, etc.). Usually an EDU is one house. It is defined differently for commercial and industrial applications. President Conaway asked for comments from the Commissioners. Commissioner Correll asked if this would take care of the Greenwood problem. President Conaway replied they would have to pay for the impact they are currently not paying for. The public hearing was closed at 7:40 P.M. Commissioner Correll made a motion to adopt Ordinance A07-2. Commissioner Greason seconded the motion. Motion carried.

D. Second Reading and Public Hearing Regarding Ordinance A06-8 to Amend Section 234-37 Modifying the Open Space Standard for the Residential Planned Community Zoning District

President Conaway opened the public hearing at 7:41 P.M. and advised this Ordinance was introduced several months ago. It relates to the definition in the county and Towns' zoning codes that identifies what is required of a developer when he seeks to build a residential planned community. At one point the Heritage Shores developer thought that they would not meet the requirements for open space and asked that we introduce this Ordinance. Upon closer examination of the Ordinance, it was found there are ample ways to resolve any shortfall as to open space in an RPC. The problem has since been resolved and President Conaway asked the Commissioners to vote to deny this ordinance. President Conaway asked for public comment. Hearing none, he asked for comment from the Commissioners. Hearing none, the public hearing was closed at 7:42 P.M.

The first reading on this Ordinance took place on December 11, 2006. The second reading took place on January 8th, 2007 and the decision was deferred. Commissioner Greason made a motion to adopt Ordinance A06-8. Commissioner Jefferson seconded the motion. The votes were recorded as follows:

Commissioner Conaway – No
Commissioner Correll – No
Commissioner Greason – No
Commission Jefferson – No
Commissioner Sipple – No

A “no” vote denies the Ordinance; therefore, the Ordinance was defeated.

X. NEW BUSINESS

A. First Reading Ordinance A07-3, Restricting the Hours of Construction in the Town

Ordinance A07-3 would restrict the hours of construction weekdays between the hours of 7 P.M. and 7 A.M. On Saturdays, no site preparation, site disturbance, excavation or other similar construction activity, and no interior or exterior construction of buildings or dwellings shall be carried on in Bridgeville before 8:00 A.M. or after 7:00 P.M. No work may take place on Sunday. This does not apply to the owner of a dwelling performing interior or exterior construction at his/her own place of residence. It would also not apply if, for example, the feed mill broke down during the night. Town Solicitor Mr. Dennis Schrader joined the meeting at this time. President Conaway asked for confirmation that this Ordinance is similar to those put into practice by other local municipalities. Solicitor Schrader agreed it was similar. Commissioner Jefferson expressed concern about construction workers such as roofers who like to start very early in the morning to avoid the hot roof during the worst heat of the day. Solicitor Schrader advised he has not heard complaints about this issue in other towns. Mr. Schrader had suggestions on how to balance the problem, i.e. changing time to 6:00 A.M. or making exception on days when the heat indices reach a certain level. Town Manager Walls suggested an exception for June – August. President Conaway recommended any exception should be worded carefully or a contractor will take advantage of it. Solicitor Schrader commented that exceptions would always be made in emergencies, such as the flooding last June; exclusions could be made when there is a threat to property or life. Concerning normal outdoor activities, most municipalities have some rules concerning construction not to begin before 6:30 or 7:30 A.M. Most people work around it. Public Safety Director Chaffinch advised during the hot summer roofing shingles become marked by feet walking on the hot shingles. The job is then somewhat ruined. President Conaway questioned whether it is a problem to amend the Ordinance prior to introducing it. Solicitor Schrader advised if the change is not embraced in the title then he may need to rework it. President Conaway commented that the Ordinance is really aimed at major contractors and developments to protect Heritage Shores residents and others from being taken advantage of by these contractors. He asked whether it would be appropriate to say “no interior, exterior construction with the exception of roofing” before a certain hour. President Conaway suggested introducing the Ordinance and amending it to read “no construction before a certain time with the exception of roofing,” if it is

agreeable to the Commissioners. Then the Commission can accept or reject it a month from now when it comes up for adoption. It was reiterated that this does not affect a resident doing work on his own residence. The Commissioners need to decide what exactly they want to control. Town Manager Walls understood the intent was to control the big construction companies at Heritage Shores from making early morning noise. President Conaway asked for a motion to defer the Ordinance so it can be amended prior to being introduced. Commissioner Correll made a motion to defer Ordinance A07-3. Commissioner Greason seconded the motion. Motion carried. A resident questioned whether there would be a problem with other trades if roofing is excepted. (i.e. asphalt driveway work.) He believes one rule should be made with no exceptions. Commissioner Correll asked if there were construction noise issues at Heritage Shores. A resident responded they knew they were moving into a construction area, so there really wasn't a problem. Commissioner Greason asked how morning construction noise is currently handled by the Police Department. Police Chief Parsons replied an officer would go to the residence and ask them to stop and most would comply.

B. Davis, Bowen & Friedel, Inc., Proposal Regarding Street Projects

Town Manager Walls advised this is a proposal from our engineers Davis Bowen & Friedel, Inc. for the design of the Town's the annual street repairs in the amount of \$18,600. She requested that the Commissioners approve the contract contingent upon monies being donated from Senator Adams and Representative Ewing to cover the repairs. President Conaway questioned the necessity of this contract; Town Manager Walls advised it has been part of the process each year and is in the Street Department budget. Our engineers provide the specifications and inspection of the work. Mrs. Walls needs their guidance for doing handicapped ramps, grading, etc. DBF's fee structure is different than last year's street project; however, Mrs. Walls is uncertain of the exact difference. This proposal will be deferred until the May Commission meeting.

C. Davis, Bowen & Friedel, Inc., Town Hall Programming and Planning

Town Manager Walls reported this proposal from Town engineers Davis, Bowen & Friedel, Inc. is for Architectural and Engineering Services for a proposed new Town Hall. The proposal will encompass the determination of required spaces and their relative sizes, followed by a generic building footprint and site plan lay-out. The ultimate goal of these services is to provide a clearer understanding of how a future town hall may function and how it may best be accommodated on the available properties. Two conceptual site layout sketches would be rendered which will roughly show buildings, parking, walkways and other site features. DB&F anticipates fees to be approximately \$4,000. Construction plans or surveying processes are not a part of this proposal. The location is yet to be determined, possibly at the present Town Hall location; possibly across the street or elsewhere. President Conaway commented this facility is quickly becoming too small for the Town. Town Manager Walls advised the U.S. Department of Agriculture offers a grant in the amount of \$50,000 that the Town will review and apply for, if eligible. Mrs. Walls would like to prepare a pre-application for the grant. President Conaway and Town Manager Walls met with the USDA's Director of Rural Development and found that there were a number of programs and grants available, including this community facilities program. If a grant were received, it would be enough money to finance the engineering portion of a building project. President Conaway clarified that

Town Manager Walls is asking the Commissioners if the Town should begin to plan for an addition or a new facility for the Town offices and should we explore the community facilities program to obtain seed money. Commissioner Jefferson asked if the \$4,000 for this proposal is budgeted. Town Manager Walls reported it is not in the budget, but feels comfortable that the Town can afford to spend the money. Commissioner Correll made a motion to accept the proposal by DB&F for Town Hall Programming and Planning and to apply for a grant through the community facilities program. Commissioner Greason seconded the motion. Motion carried.

D. Bridgeville Commercial Gateway Center

The owners of newly annexed property on Route 13, Route 13A and Rifle Range Road has submitted a plan for a motel site. They indicated in January that they were very close to signing a contract for a franchised motel. President Conaway has since spoken to the property owner advising that Bridgeville retains the right to approve a structure that is in keeping with the current community. President Conaway presented a conceptual picture of the proposed Super 8 Motel. It will have architectural shingles, stucco, stone and brick. It will not be a typical Super 8 Motel, but will be up-scale. Livable Delaware encourages municipalities to look at a variety of designs offered by a franchise and choosing what fits in with the community. The franchise agreement has been signed and money has exchanged hands.

E. Delaware State House Bill 111

President Conaway advised this is an act to amend Titles 9, 22 and 30 relating to land use and the applicability of local governments' realty transfer taxes. There is the potential that if a government builds outside of its growth area, any transfer tax would go to the state and not to the government that sponsors it. It would have great impact on the county, as \$9 million of their transfer taxes revenues would go to the state of Delaware. Half of the transfer taxes must go to road improvements; however, \$4.5 million would not begin to address road needs. This bill will be the subject of much discussion; the county has asked for support in fighting. President Conaway feels if they are able to take over county transfer taxes, they will go for municipalities' transfer taxes next. The state has notoriously under funded roads in Delaware, and in Sussex County in particular. There is another bill being considered that would allow municipalities to add a surcharge to their building permits specifically for school improvements and other items; however, a new high school costs \$80 million. There is not enough money in building permit surcharges to pay the local share of a new school. Bridgeville will support the county in their efforts April 24th to stop this attack on revenues. Apparently, school district revenues throughout Sussex County have increased 150%.

XI. SPECIAL REPORTS

A. Web Page Update – Commissioner Greason

Commissioner Greason has agreed to take responsibility for updating the Town's web page. He advised we have the capability to put our newsletter advertisers on our website. The Town website will have the ability to link to the Apple Scrapple, Christmas in Bridgeville and Punkin' Chunkin' websites. The Town will also be able to charge for advertisements on the website and,

therefore, pay for itself, rather than being dependent on tax revenues. He does not intend to inundate the website with advertising, but merely cover expenses. Commissioner Greason has made arrangements to change the colors on our website calendar with no charge to the Town. Please place all calendar items for the website in his mailbox.

B. SLEAF Grant

Police Chief Parsons requested permission to apply for a SLEAF grant in the amount of \$29,610; however, his main concern is receiving mobile vision cameras for Police Department vehicles. This involves documenting our evidence on computers instead of handwritten documentation. It also involves lodging and training expenses for the equipment. The total amount for this request is \$19,400. We are also resubmitting for 1992 weapon replacements. SALLE funds are broader in their usage. SLEAF funds are more limited and are regulated by the Attorney General. This will be the first SLEAF meeting under the new administration. Out-of-state training is just beginning in the Police Department. Sergeant Parker will be going to training soon and other officers will follow in the future. Public Safety Director Chaffinch is hopeful he will be able to have a Bridgeville officer attend the FBI National Academy. This would be a first in the state. More preparation is necessary, including some of these additional training opportunities. It was suggested that the Town offering additional training opportunities would be attractive for future hiring. The Department wants to offer these additional training opportunities to our officers for their enrichment and the Town's benefit. Commissioner Correll made a motion to apply for the SLEAF grant in the amount of \$29,610. Commissioner Greason seconded the motion. Motion carried.

XII. CLOSING OF AGENDA

President Conaway advised the Commissioners would close their regular meeting agenda and move into a Public Hearing on a Conditional Use request concerning 11 Church Street. Commissioner Jefferson made a motion to close the agenda and move into the Public Hearing. Commissioner Sipple seconded the motion. Motion carried. The Commission agenda was closed at 8:26 P.M. The minutes of each meeting are recorded separately.

Respectfully submitted by:

Margaret W. Sipple
Margaret W. Sipple, Commission Secretary

Peggy A. Smith
Peggy A. Smith, Transcriptionist

MINUTES

CONDITIONAL USE HEARING APRIL 9, 2007 – 8:28 P.M. TOWN HALL

I. CALL TO ORDER

The regular monthly Commission meeting immediately preceded this hearing. The Commissioners moved directly into the Conditional Use Hearing and there was no official call to order, flag salute, nor quorum present reported. The meeting began at 8:28 P.M. Present: Commission President Joseph Conaway, Commissioners Patricia Correll, Margaret Sipple, Earl Greason, William Jefferson, Town Manager Bonnie Walls and Town Solicitor Dennis Schrader.

II. OPENING OF THE PUBLIC HEARING

CONDITIONAL USE REQUEST – 11 CHURCH STREET-CHANTEL/TIMOTHY BANKS

This Conditional Use Hearing has been convened to consider a request by Chantel & Timothy Banks for a Daycare Center at 11 Church Street, Bridgeville, Delaware, (Sussex Tax Map #131-10.12-90.) The Public Hearing was advertised in the Seaford Star and neighbors within 100 feet of the property were notified of the hearing in writing. It is noted that the Town is in receipt of materials presented by the applicant – an application, payment of fee, survey of existing property, deed, public hearing notice and a list of property owners within 100 feet of the proposed project. These will be a part of the record.

III. APPLICANT'S SUBMITTAL

President Conaway turned the meeting over to Town Solicitor Mr. Dennis Schrader. Solicitor Schrader opened the Public Hearing at 8:30 P.M. and advised the applicants will have the opportunity to address the Commissioners and present relevant information that will convince the Commissioners to approve this conditional use. Solicitor Schrader will then ask any persons present who desire to speak in favor of the application for their comments, followed by those who wish to speak against the granting of the application. Under the newly adopted Land Use and Development Ordinance of the Town of Bridgeville, under Section 234-30-Subsection B3, daycare centers are allowed as a conditional use in a R-1 residential district. Minimum required findings by the Commissioners are addressed in Section 24C and there are three types of daycare facilities defined. First is a family childcare home in which the providing of daycare services is for 1-6 children. The second is a large family childcare that has 7-12 children and the third is for 13 or more children. Solicitor Schrader asked which of these the applicant was applying for. Mrs. Banks responded they intend to request a conditional use for 13 or more children. Solicitor Schrader determined that the applicants, Chantel and Timothy Banks own the property and reside at 11 Church St. He asked the applicants to describe the property for the Commissioners. The Banks currently have a childcare center at this location. Mrs. Banks has been a licensed daycare provider

for approximately three years. They intend to move out of the house and use it exclusively for a large childcare center. Hours will continue as 6:30 A.M. to 5:30 P.M., Monday-Friday only. The property is 11,789 square feet; it is a 1-story frame residence. The property is currently licensed for a daycare center for 1-6 children. They applied for a license from the state for the 13 or more daycare center approximately two months ago.

Solicitor Schrader inquired:

- if there are adequate restroom and cooking facilities
- if they will continue to maintain the look of a residence at the property
- if the daycare has water, sewer and electric services
- if they are insured
- if they have met all the other requirements of the state

The owners replied in the affirmative. They will have a small sign outside, but that is all. Mrs. Banks was advised the Town has a code relating to signs and must contact the Code Enforcement Constable before the placement of any sign at the daycare.

Solicitor Schrader asked:

- if there have been any complaints from the neighbors concerning how the property looks now or might look in the future
- if there have been complaints concerning nuisance or noise
- if there has been any problem with on- or off-street parking

They responded in the negative. Parents stop on Church Street for pick-up and delivery and some pull into the property's driveway.

Solicitor Schrader gave the applicants an opportunity to persuade the Commissioners to grant their conditional request. Mrs. Banks expressed that there is a need for larger daycare facilities in the area.

IV. COMMENTS FROM THE COMMISSIONERS

Solicitor Schrader asked for questions from the Commissioners. President Conaway asked about the number of children using the daycare presently. Mrs. Banks advised she has six children all day and an additional three children come after school. The coming and going is staggered; not everyone arrives and leaves at the same time. President Conaway asked how many children she intends to have. Mrs. Banks replied the state decides the number based on the number of toilets and sinks. The house has three bedrooms and two baths. At this point she is not certain how many more than 13 children the state will allow. President Conaway suggested they would probably be required to add bathroom facilities. Commissioner Jefferson asked if there is fencing and a playground area. Mrs. Banks responded there is fencing and playground equipment. President Conaway confirmed that it is a for-profit operation and asked the number of employees. Mrs. Banks replied that she is the only employee. The state licenses her for working with 9 children by herself because she is a level 2 and has an Early Childhood degree. President Conaway asked about the program.

Mrs. Banks went through the daily schedule for the Commissioners:

- Playtime
- Breakfast
- Circle Time (educational)
- Playtime
- Outside Time
- Lunch
- Nap
- Story Time / Playtime

Mrs. Banks advised the oldest child she has right now is 11 years old and the youngest is one year old. The bus stops at the house to leave off the three after-school children. Mrs. Banks advised her family will be moving to 16 Church Street for their residence. Commissioner Greason returned to the parking issue, which is often a problem area with these types of requests. He advised Church Street is a main thoroughfare and a state highway. Mr. Banks advised there hasn't been a problem at all with delivery and pick-up of children; things run very smoothly on a daily basis. If there is a problem with additional children, Mr. Banks intends to move the fence 10-15 feet and use the back of the lot for parking. The driveway is on the right side of the house. Commissioner Greason advised having parking on the property would ease the traffic situation on Church Street. Police Chief Parsons was asked if he was aware of any traffic problems at this location. Chief Parsons replied in the negative.

V. COMMENTS FROM THE PUBLIC

Solicitor Schrader asked if there were any persons present who wished to address the Commissioners in favor the application. Ms. Anna Thomas of 9 Church Street responded that she is in favor of this application. She is a next door neighbor and is familiar with the owners and the business that they currently operate on the property.

Solicitor Schrader asked if there were any persons present who wished to speak in opposition to the application. Mr. Hollis Smack of 7229 Seashore Highway replied that he representing Mt. Calvary United Methodist Church. Mr. Phillip Davis owned the property on the other side of the Banks family; however, Mr. Davis deeded the property, which houses an apartment building, to the church one month ago. The apartment building currently has Mexican tenants (3 apartments – one family, 2 men together and 3 men together). He is concerned that, based on the proximity of the daycare, he would have to initiate background checks on these and future tenants. This could interfere with the renting of the property. President Conaway asked if Mr. Davis had any problems with his tenants and the current daycare. Mr. Hollis did not believe there had been any problems. Mr. Smack is not at all against the daycare; his only concern is the need for background checks for his tenants. He is concerned about the possibility of new tenants moving in who are sex offenders. Solicitor Schrader assured him that the sex offenders would need to be registered with the Town. If they do not register, they have violated the terms of their probation. There is already a Town Sex Offender Ordinance that would not allow registered adult sexual offenders to live within 2,500 feet of a daycare center. Commissioner Greason suggested Mr. Smack may want to do some sort of check on potential tenants anyway. President Conaway

suggested he might do a credit check, but not necessarily check someone's sex offender status. If a tenant does not inform the Police Department that he is a registered adult sex offender, it is the potential tenant's liability, not Mr. Smack's liability. If it became clear that a tenant was a registered adult sex offender, the church would have to evict him and the Bridgeville Police would arrest him. Mr. Smack stated the church will put a screening program in place, but it will not include background checks. Mr. Smack asked if the Banks were having any problems with the tenants at the apartment. Mr. Banks replied they have a daycare, so they have a lot of noise themselves. There is a lot of noise coming from one of the apartments, but it has not been a problem. There is a good relationship between the apartments and the daycare, as someone from the apartments had asked if Mrs. Banks had room for their child, but she was at capacity. It was suggested that Mr. Banks and Mr. Smack exchange telephone numbers and keep in touch about any problems that might develop. Mr. Smack replied they have no issues with the daycare at all. They only wanted to go on record with their concern of the possibility of sex offenders renting an apartment. Solicitor Schrader reiterated it is extremely important that Mr. Smack understand that within the limits of the Town of Bridgeville there is a registration Ordinance and that Ordinance limits the ability of registered adult sex offenders to live next door to this or any other daycare center, school, or park. He asked Mr. Smack to contact the Police Department if he ever has a concern about the status of any tenant. Mr. Smack chose to withdraw his opposition to the conditional use request. President Conaway suggested including something about the ordinance in the tenant application. He also asked how the Banks were able to originally open the daycare without proper zoning? Mrs. Banks reported she went through all the state requirements and didn't find out until later that the Town had to make approvals as well. Apparently the state never informed Mrs. Banks she was not zoned to operate a 9-child daycare. President Conaway commented if the Commissioners approve the conditional use, they are making the Banks legal. If they do not approve it, the daycare center will be out of business.

VI. CLOSING OF THE PUBLIC HEARING

Solicitor Schrader closed the public hearing at 8:53 P.M. and advised it appears that there has been sufficient statement of facts to make those findings as required by the Ordinance in Section 234-24, Subsection C of the Code of the Town of Bridgeville, should the Commissioners choose to adopt this conditional use. The Commissioners may attach to the conditional use hours of operation, signage, etc. The Delaware Division of Children, Youth & Families, must also license the operator of the daycare.

The Commissioners suggested the following conditions, should they choose to approve the application:

- Mrs. Banks must receive full approval from the state of Delaware and be licensed by the state for 13+ children; she must meet all the requirements of the state, which has complete control over daycare centers.
- The hours should be limited to those already indicated: Monday through Friday, 6:30 A.M. to 5:30 P.M.

Conditional Use Hearing – Banks

April 9, 2007

Page 5

- Signage should be limited to a typical real estate sign/or a single dwelling home sign, which is no more than 1 foot by 2 feet, unlighted. (All Town codes must be followed.)
- Adequate parking must be provided for employees and drop-offs.
- The owner/operator must comply with all governmental requirements within this jurisdiction, including handicap accessibility.

Commissioner Jefferson made a motion to approve the conditional use application per the conditions that have been stated above. Commissioner Sipple seconded the motion. President Conaway advised it was moved and seconded to approve the request for a conditional use for a daycare center at 11 Church Street, under the conditions that have been spelled out. If the conditions are not met, the conditional use can be withdrawn and the daycare would be out of business. The votes were cast as follows:

Commissioner Jefferson – Yes, based on the acceptance of the citizens who came tonight to approve and provided the Banks abide by the conditions of the application

Commissioner Sipple – Yes, for the reasons already stated

Commissioner Greason – Yes, for the reasons already stated

Commissioner Correll – Yes, provided the owner/operator follows all the rules

President Conaway – Yes, under the conditions as imposed. It does meet the requirements of our Land Use & Development Code, in that residential areas of the Town are places that daycare centers can exist. The Commissioners will expect the Banks to be fully licensed by the state. This corrects a violation of our zoning ordinance by allowing this conditional use. Motion carried.

President Conaway advised written findings of fact will be drafted along with the Ordinance by our attorney. The Banks are free to continue their application for state licensure and are requested to bring a copy of the license to Town Hall when it is received.

ADJOURNMENT

Commissioner Jefferson made a motion to adjourn the meeting. Commissioner Sipple seconded the motion. Motion carried. The meeting was adjourned at 9:01 P.M.

Respectfully submitted by,

Margaret W. Sipple
Margaret W. Sipple, Commission Secretary

Peggy A. Smith
Peggy A. Smith, Transcriptionist