

**MINUTES  
COMMISSIONERS OF BRIDGEVILLE  
DECEMBER 14, 2009 -7:00 P.M.  
TOWN HALL**

**I. CALL TO ORDER**

The meeting was called to order by President William Jefferson at 7:00 P.M.  
Present: Commissioners Patricia Correll, Ruth Skala, Michael Collison, Earl Greason and Town Manager Bonnie Walls. The meeting began with the Flag Salute and Lord's Prayer.

**II. QUORUM PRESENT**

President Jefferson reported a quorum was present to conduct the business of the Town of Bridgeville.

**III. APPROVAL OF MINUTES**

Regular minutes and Executive Session minutes from the November 9<sup>th</sup> Commission meeting were presented for approval. Commissioner Correll made a motion to approve the minutes as presented. Commissioner Skala seconded the motion. Motion carried.

President Jefferson acknowledged the birthdays of Town Manager Walls and Ms. Dottie Harper from Brookfield Homes on Saturday, December 12<sup>th</sup>. Everyone wished them a Happy Birthday.

**IV. SUSSEX COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG) PUBLIC HEARING**

President Jefferson introduced Mr. Dale McDowell from the Sussex County Community Development Block Grant Program and opened the Public Hearing concerning a grant application at 7:02 P.M. The purpose of this Public Hearing is for the citizens to participate in a yearly CDBG application. The funds come from the U.S. Department of Housing and Urban Development (HUD) to the Delaware State Housing Authority. Delaware Towns are making application now for next year's funding program, which runs from July 1, 2009 to June 30, 2010. The program is geared toward low to moderate income individuals and the homeowners must meet eligibility criteria; income guidelines are set yearly by HUD. There is a 3% loan available for housing improvements. (CDBG documentation is attached to the permanent minutes.) Town Manager Walls advised Bridgeville intends to add several more houses to the current waiting list for rehabs. Bridgeville has focused on housing rehabilitation and demolition projects in past years and Town Manager Walls would like the Commissioners to apply for demolitions and rehabs in the upcoming funding year. Commissioner Correll commented Bridgeville has received almost \$1 million from this program since 1993. Mr. McDowell asked for questions or comments from the Commissioners and the citizens. Hearing none, President Jefferson closed the Public Hearing at 7:05 P.M. Commissioner Collison made a motion to submit a CDBG application and accompanying resolutions required for rehabilitation and demolition projects in the Town of Bridgeville. Commissioner Skala seconded the motion. Motion carried.

**V. FY-2009 AUDIT REPORT PRESENTATION – MR. RICK TULL – LANK, JOHNSON & TULL**

President Jefferson introduced CPA Mr. Rick Tull from the firm of Lank, Johnson and Tull. Mr. Tull advised the Commissioners have all received copies of the financial statement for the year ending June 30, 2009. This is an unqualified opinion, which is the highest level of opinion possible. All Town finances are in order and conform to generally accepted accounting principles. This was a single audit with additional testing necessary to show compliance, which was required due to the Town expending over \$500,000 in federal funding. Mr. Tull recommended the Commission read the opening pages of the audit thoroughly as it explains the contents of the report in layman's terms. The balance sheet shows that the Town has over \$15 million in assets (ie. – cash, accounts receivables, property and equipment, etc.). The Town's debts total \$8.42 million. The net assets (difference between assets and debts) total \$6.62 million. Of that amount, \$160,000 is unrestricted assets (not tied up in land, buildings, etc.) The statement of assets is fairly strong for a municipality. A high percentage of Town assets are currently in cash or in accounts receivable. The Town has in excess of \$1 million cash in the bank currently, although a portion is encumbered for future improvement projects. This is a strong position in this day and time. Concerning the change in net assets, our total revenue in 2009 was \$3.5 million; expenses totaled \$2.23 million, with an excess of \$1.3 million, which was largely based on federal funding for wastewater treatment plant improvements. This shows as revenue for the year. The Town is in very decent financial condition. Mr. Tull is available to answer any questions the Commissioners may have, either here tonight or at his office. In this economic climate, how the Town spends its money is important. Mr. Tull has encouraged the Town management to maintain oversight of all the financial activity in the Town, as there is a great deal of fraud and mis-appropriation of funds being reported. All Town officials should ask questions and be aware of the finances. He praised the Town staff for their cooperation when his audit team came to Town Hall to complete this audit. Commissioner Skala asked about the statement of transfers concerning a \$227,195 amount. Mr. Tull advised there isn't a separate operating account for water/sewer; it is a part of the general fund. To balance the accounts, the money must be shown as having been transferred. Concerning any suggested improvements, Mr. Tull has given Town Manager Walls a letter reiterating the importance of continuing oversight of all monies. With \$1 million in the bank, he stressed, it is important to have something in writing to the staff concerning acceptable investing practice and proper authorizations concerning funds. Commissioner Correll made a motion to accept the FY-2009 Audit Report from Lank, Johnson and Tull. Commissioner Collison seconded the motion. Motion carried.

**VI. CORRESPONDENCE**

Town Manager Walls acknowledged receipt of thank you letters from the Kiwanis Club of Bridgeville and the Senior Center for the Town's donations to them from the Charity Open Golf Tournament in October.

**VII. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE**

Finance Director Savage directed the Commission to the Balance Sheet for the period ending November 30<sup>th</sup>. (The following amounts are in rounded figures.) The General Savings and Checking Accounts totaled \$645,000, unchanged from last month. The Town's Rainy Day Fund, including the

Escrow, Sewer Sinking and Impact Fees totaled \$486,000, an increase of approximately \$300 in interest. The Town's EIDE checking account for drug overtime decreased slightly during November. The Golf Tournament account decreased by \$4,500, due to a second donation to the three recipients of the tournament funds. Concerning Accounts Receivable, there is still \$12,000 outstanding in property tax payments; a final notice letter is being sent by the Town Manager. Penalties for past-due taxes began October 1<sup>st</sup> and will continue to accrue monthly. Regarding the Budget Report, the Town is five months into the budget year with a target of 41%. Transfer tax shows receipts of \$56,000 and the Town received another \$23,500 today, which puts the total at approximately 75% of this budget line item. The State of Delaware grants on the report mostly concern Street Aid funds which were budgeted for, but not received. Total income is at 59% of the budget, an increase of approximately 1% in November. On the expense side, Miscellaneous Expenses are well above budget due to the return of unspent grant monies. Our total expenses are at 37% of the budget, up 9% from last month. The returned, unspent grant monies from SLEAF were leftover monies from the 2005 and 2007 grants. Some items purchased were billed at a lesser cost than originally quoted. Unfortunately, the money had to be returned; the \$5,500 could not be used for any other purchases. Towns always send money back and then re-apply for another grant; Bridgeville has also returned money in the past. Per Chief Parsons, the grant opportunity is available several times each year. Looking at Accounts Payable, bills received to-date total \$137,000, the majority of which are debt service for the spray farm (\$93,000). \$146,000 is expected in upcoming expenses, the majority of which is for debt service for wastewater treatment plant improvements. Commissioner Skala questioned how the Workman's Compensation bill compares with last year. Finance Director Savage advised this year's bill was approximately \$3,000 less than last year; however, current issues have not yet been factored in. Commissioner Correll made a motion to pay the bills as presented. Commissioner Skala seconded the motion. Motion carried.

#### **VIII. DEPARTMENT HEAD REPORTS**

President Jefferson advised the Department Head Reports are available to the public. There were no questions or comments concerning the reports.

#### **IX. CITIZEN'S PRIVILEGE**

President Jefferson asked Ms. Dottie Harper from Brookfield Homes for any information she might want to share. Ms. Harper advised they have chosen a firm date for the Spicer Memorial Golf Tournament to benefit the daughter of slain Police Officer Chad Spicer. The Tournament will take place on June 17, 2010 at the Heritage Shores Golf Course. She also reported the Heritage Shores Restaurant and Tavern will be open to the public for a New Year's Eve Celebration. Concerning home sales, Brookfield has sold 9 spec and 5 model homes this year. Ryan Homes, which has recently joined Heritage Shores as a builder, has sold 15 homes. The developer has improved lighting on the entrance features and that area will be landscaped. They are also working with the Department of Transportation concerning new street lights. The development has also killed cattails and made pond improvements recently.

Mr. Russ Beard of 25 Amanda's Teal Drive requested an update on an issue introduced at the November Commission meeting concerning the ownership and maintenance of the devil's strip and

sidewalk at each Heritage Shores home. Town Manager Walls reported she plans to cover that issue in her monthly report.

## **X. TOWN MANAGER'S REPORT**

Town Manager Walls reported the initial planning meeting for the fourth annual Spring Community Health Walk has been held. The Walk will again be sponsored by Nemours Health and Prevention Services, Sussex Child Health Prevention Coalition, the Town of Bridgeville and other neighboring Towns. The Walk is scheduled for Saturday, April 17, 2010 at the Woodbridge Sports Complex, beginning at 9:00 A.M.

Police Chief Parsons and Secretary Peggy Smith are back to work after surgery. Both procedures went well.

A pre-construction meeting was held regarding Backup Well #6. A project schedule was outlined, documentation and needed recordkeeping was defined, needed signage identifying the project was arranged and all pertinent details were reviewed.

Diane Laird and Jeff Ferrell from the Delaware Economic Development Office held a second meeting with Bridgeville business owners on November 19<sup>th</sup>. They discussed how a downtown can again become a center of thriving business activity and how to address the variety of issues and problems that challenge businesses in Bridgeville. The representatives prepared a survey form to be placed in our local businesses and they were distributed. A follow-up meeting is scheduled for January 6, 2010 when the survey results will be reviewed.

At the November 9<sup>th</sup> Commission meeting, there was discussion regarding the ownership of what Heritage Shores is calling the devil strip – the area between the sidewalk and street curb where trees are planted. After investigating, Town Manager Walls advised everything in front of the resident's property is to be maintained by the property owner. As Commissioner Collison stated at the last meeting, it is an unwritten rule which, according to her understanding, has been in place for many years. She has spoken with employees who have been with the Town for a long time and they confirm the unwritten policy. The sidewalks belong to the property owner; the Town owns from curb to curb. Town Manager Walls is pursuing provisions to have this policy documented.

The Municipal Election will be held on Saturday, March 6, 2010. The candidate filing deadline is February 5<sup>th</sup>, with a voter registration deadline of February 24<sup>th</sup>. Districts voting in March will be District 1, currently represented by Commissioner Greason; District 2, Commissioner Skala and District 3, Commissioner Correll.

Town Manager Walls has spoken again with Ms. Mary Jones from Mt. Calvary United Methodist Church concerning the completion of the clean-up project on Church Street and along the stream banks. Ms. Jones has assured Town Manager Walls the project will be completed after the holidays.

The new Bridgeville Public Library has offered their conference room for large meetings, (up to 200 person capacity) should the Town need the facility.

Town Manager Walls has, like Ms. Harper, not had much success with DelDOT trying to enhance the lighting at the entrance to Heritage Shores. Town Manager Walls should have a response from DelDOT in one – two weeks. Commissioner Skala advised DelDOT had a van sitting across from the Heritage Shores entrance last week monitoring traffic.

On behalf of the Commissioners, Town Manager Walls extended her sincere thanks to all those that donated canned items for distribution to the needy. The Town has collected a very good supply of items and she believes each recipient will be most appreciative.

**XI. OLD BUSINESS - None**

**XII. NEW BUSINESS**

**A. PUBLIC HEARING – PLANNING AND ZONING COMMISSION  
RECOMMENDATION RE: MRS. KAREN SMITH CONDITIONAL USE REQUEST**

President Jefferson advised this is the time and place for a Public Hearing concerning the Karen Smith Conditional Use Request. The Public Hearing was opened at 7:30 P.M. Attorney Ms. Jane Patchell from the firm of Tunnell and Raysor represented Mr. and Mrs. Smith in this request. The Smiths met with the Planning and Zoning Commission on November 4, 2009 for a Public Hearing, at which time the Commission unanimously denied the conditional use request for a karate studio. Ms. Patchell highlighted the Bridgeville Town Code Section 234-30 which deals with permitted uses and structures in an R-1 residential district, including the Smith property at 3 Elm Street. Permitted uses and structures are located in Sub-Section B. One of the permitted uses is an educational institution, either public or private. In Section 234-15.1, an educational institution is defined as “any school or training institution, however designated, which offers a program of trade, technical, or artistic instruction.” She added that Salisbury Kenpo Karate, Inc., owned by Mr. Smith, has been selected for a 2009 award in a Martial Arts School category by the U.S. Commerce Association. This is the proposed use of the structure at Elm Street. It will be an educational institution teaching martial arts. Ms. Patchell advised the definition of martial arts, according to the Merriam Webster dictionary is, “any of several arts of combat or self-defense as karate or judo that are widely practiced as sport.” It is her opinion that the applicant does not need conditional approval, that the karate studio qualifies as a permitted use for this structure and, unfortunately, it originally went through the process as a conditional use request, which was not necessary. She suggested they could move forward with the alternative argument for a conditional use or the new discovery (as a permitted use) can be discussed.

Solicitor Ms. Lynn Kelly of Wilson, Halbrook & Bayard, representing the Town, asked for clarification. She questioned the applicant’s position that Bridgeville Code Chapter 234-30B, “Permitted Uses and Structures,” “Educational Institution” defined allows the karate studio. This would only apply if martial arts can be defined an “educational institution”. The term “Educational Institution” does fall under B3, which is a part of Conditional Uses that could be approved by the Commissioners.

Commissioner Collison advised the Code Book states an educational institution can be permitted as a conditional use, if the Commission approves it as such. Ms. Patchell advised this request was never argued as an educational institution when it was brought before the Planning and Zoning Commission; it was brought before the Commission only as a request for a garage and was argued as such. Now that it has been identified as an educational institution, it should be argued as an educational institution. She added that Mr. Smith has been contacted by a home education organization to supply karate classes to satisfy educational requirements for home-educated schooling.

Ms. Kelly reported she believes she understands the applicant's position tonight as follows: Because the request is permitted as a conditional use under Section 234-30, it does not need to follow the regular procedures that other conditional uses must follow. Ms. Patchell disagreed and stated the applicant's position is: Since the request has never been argued before as an educational institution, the Planning and Zoning Commission's report that denied the request never even considered that it was an educational institution and, indeed, the request was never presented to the Planning and Zoning Commission as an educational institution. Commissioner Collison responded that all building permits involved in the process applied for a garage, not an educational institution. Ms. Patchell advised it is a garage structure. Ms. Patchell mentioned that Mr. Smith supplied a letter, as requested by the Town advising of his intentions. Commissioner Collison restated it was identified as a garage on all building permits and now, after the structure is completed, Mr. Smith is coming back and asking to teach karate in his garage, but that was not what the permitted use was for. Ms. Patchell understands that from the beginning, when the permit was first discussed with officials of the Town of Bridgeville, the building was to house a karate studio. Ms. Patchell advised Mr. Smith explained to the Planning and Zoning Commission how the project transpired and grew into a karate school. The original application by the builder did not include the intention of a karate school; however, all discussions with the Town Code Enforcement Constable have included the karate school intention.

Commissioner Skala inquired about the intentions for a second craft business in the building. Ms. Patchell advised the applicant had brought the consideration of a second business in the new building to the Planning and Zoning Commission, but withdrew the request that night.

Speaking directly to Mr. Smith, Commissioner Collison asked if he applied for the permits with the intention of making the building into a martial arts studio. Mr. Smith replied that when he first applied for the permit he went to Code Enforcement Constable Butler and said he would like to build a garage-style building and that he was going to think about teaching some small karate classes there. Commissioner Collison asked why none of the paperwork reflected that intention. It was explained that Mr. Smith's builder came to purchase the building permits, but Mr. Smith had spoken to Mr. Butler as well. Mr. Smith added that later he was asked to submit a letter to the Town, to clarify his intentions concerning a karate school, which he did.

Code Enforcement Constable Butler was asked to present his understanding of the request. He advised the first person he discussed the project with was the mason, who came to Town Hall for a permit for the garage footer, concrete and block. Later, the builder came to Town Hall and completed the permit as a garage. During the building of the garage, Mr. Smith informed Mr. Butler that he might be having some karate instruction in the building and the structure was changed. Mr. Butler informed Mr. Smith it needed to be renamed because it was no longer a garage; the permit needed to

be upgraded to "studio" or some other designation other than garage. Commissioner Collison indicated that even the updated permit identified the structure as a garage. Mr. Butler indicated they didn't really know what to call it, as it could still be considered a garage; however, the structure had been changed from the original plan and additional money was charged for the permit. The name of the structure was not changed. Mr. Butler feels the structure could still be called a garage; it could be called anything; it could be used as a woodworking shop or used for many different things. Commissioner Greason asked if the structure could still be used as a garage. Mr. Butler advised it could be; however, it does not have the large garage door opening on one side.

Mr. Smith reported his Salisbury karate studio has approximately 20 students. Mr. Smith had suggested at the Planning and Zoning Commission meeting he would have 8-10 students per class, two classes per evening, with each class lasting 45-60 minutes and a half-hour break between. This would make the potential number of students each evening a total of 20 plus 1-2 classes for homeschool children during daytime hours to fulfill their physical education requirements, as mentioned previously. Ms. Patchell advised the Commissioners can put conditions on the number of students allowed.

Ms. Patchell reported the building is insulated to reduce noise associated with the karate classes and no classes would take place outdoors. There is no machinery, equipment or music used in the lessons that would result in any vibrations or discernible noise to any of the neighbors. There is a dedicated bathroom for the studio's use in the house and there will be no off-site employees. The intent of martial arts is to be a beneficial study for students; it teaches them self-discipline, self-confidence, self-determination, self-control and self-esteem. This is an important need for young children in the community. Ms. Patchell added, the property is located on a dead-end street with no sidewalks or curbs. The Smiths have proposed an expansion to their driveway for a total of 20 feet of width, with two turn-arounds that would provide space for 8-10 vehicles. Because of the turn-around, vehicles would not need to back out on Elm Street, as one of the code requirements is that cars cannot back into the street. At the Planning and Zoning Public Hearing in November, Solicitor Dennis Schrader of Wilson Halbrook & Bayard asked Code Enforcement Butler, according to the size of the building and the number of students in a karate class, the number of parking spaces that would be required. Mr. Butler replied approximately 6 parking spaces would be required. Ms. Patchell advised the 8-10 parking spaces that have been provided in the Smiths' plan are more than adequate. The new building will be attached by a breezeway to the house, allowing the students to use a covered walkway to the bathroom inside the house. Ms. Patchell stated that based on this information, it is the Smiths' contention that the property should qualify for a conditional use. It is a permitted use under conditional uses. The applicant has done everything possible to minimize noise and disruption to the neighborhood; the applicant has provided adequate parking spaces and limited the hours to those approved in the code and therefore is requesting approval of the conditional use for a karate studio, which is an educational institution for the martial arts.

Attorney Kelly added her comments on the application. Concerning the conditional use request of the karate studio permitted as an educational institution, one must look at the Code Book's definitions. A martial arts studio is not specifically mentioned in the definition of an educational institution in our Land Use and Development Code. Ms. Kelly disagrees with Ms. Patchell's assertion that this request did not have to go before Planning and Zoning. Under Chapter 234-24 there is a

procedure that conditional uses must follow. Going before Planning and Zoning was certainly a step in the procedure; however, it was not an extra step in the process. Ms. Patchell advised, per the printout that she distributed to the Commissioners, that it is a permitted use. Ms. Kelly advised Ms. Patchell is referencing Code Section 234-30 and Ms. Kelly is referencing Section 234-24; they are not referencing the same information. Commissioner Collison added the exact words of the Code, "Planning and Zoning Commission shall review each conditional use application at a regular or special meeting and forward the recommendation to the Town Commissioners."

Ms. Patchell advised several letters of support had been received from the neighbors on Elm Street. Those most affected by the karate studio had expressed their support. The Commissioners did receive those letters in their packets. Commissioner Collison commented those letters were based on current owners and did not take into consideration future owners.

Ms. Shelly Boyd of 2 Elm Street expressed her opinion concerning the applicant's request. She believes the karate school would be great, as there are few activities for children in the community. The street is quiet and the Smiths have taken every step to avoid disrupting the neighbors; none of the neighbors have expressed a problem with the proposed karate studio.

Ms. Patchell advised the home-based business issue was considered at the Planning and Zoning Commission Public Hearing in November. There was a difference of opinion as to whether this request could be considered in the classification of a home occupation out of the new building. It was discovered that the term "residential structure" is an undefined term in the code. There is a discussion concerning this issue in the minutes of the November 4<sup>th</sup> Planning and Zoning Public Hearing. Code Enforcement Constable Butler believes the Code book reads that the "residential structure" includes the entire parcel. Solicitor Schrader does not agree with that designation and believes it refers to the residence itself. Ms. Patchell suggested that the Commissioners have the right to re-evaluate and possibly come to a determination or decision concerning these two opposing opinions. If the Commissioners come to the decision that this request fits into the category of a home occupation that qualifies, home-based businesses are discussed in Chapter 234-47 of the Town code. The definition is "any business, occupation or activity that is undertaken for gain within a residential structure (an undefined term) that is incidental and secondary to the use of that structure as a dwelling unit." Concerning permitted uses for home-based businesses, Chapter 234-47 Section B, 3 allows "instructional services, including music, dance, art and craft classes, tutoring." Referring again to the definition of martial arts, it would fall within the definition of art. Section B, 5 allows "studios for artists, sculptors, musicians, photographers, and authors." Based on the definition, martial arts would be permitted according to this section, as well. Commissioner Collison contends that this is a conditional use that must be approved; it is not automatically permitted. Ms. Patchell still contends that this request falls under the category of home-based businesses that are permitted without the need for a conditional use hearing. Ms. Kelly is not able to necessarily agree that this request is within the definition of a home-based business. She will defer to the Town's chief attorney, Mr. Dennis Schrader, concerning a determination; however, it is questionable that the garage/studio structure is a "residential structure." Ms. Patchell referred to Merriam Webster's dictionary definition of the word residential – "or or related to residence." Ms. Patchell advised the courts of the State of Delaware have ruled that if there is an undefined word in a code, the benefit should be given to the applicant. The



courts recommend that the code be changed rather than to apply a restrictive definition to an undefined term.

Commissioner Collison asked Mr. Smith if he is currently or has in the past conducted classes in the new building. Mr. Smith replied he is not currently nor has he conducted classes there.

Commissioner Skala indicated she had been surprised at the size of the garage and wondered if it would be a structure to store antique autos or something large. She observed the building looks like a commercial structure rather than a home-based business. She would not like to live next door to this compound.

Mr. Mario Hernandez of 200 S. Main Street spoke in favor of the karate studio. As a homeschooling family, he and his wife are looking for local opportunities to provide a full range of activities for their children. The Town children need positive, disciplined local activities and this business would provide that to the community. This positive activity would counter the destructive activities going on in Town. Commissioner Skala suggested the two empty storefronts on Market Street would be an ideal place for this activity.

Commissioner Greason questioned the new parking diagram compared to the previous diagram. Ms. Patchell advised the turn-around must be available so cars do not have to back out into the street, which limits the number of spaces available. Mr. Butler suggested that the parents would likely not all stay for the classes. He believes the property offers 8 adequate parking spaces.

President Jefferson asked about the insulation in the building. Mr. Smith advised he has used R-19 standard insulation with wallboard over it. Mr. Smith limits the amount of noise when the students do a karate yell; he always keeps the amount of noise under control. Hours of operation would be 5:00 P.M. to 8:00 P.M., two to three nights per week only, as he teaches in Salisbury on Tuesdays and Thursdays. If he does home school classes they would take place during the day and would likely be very small. President Jefferson questioned bathroom use and estimated that there might potentially be 16 people per day using the house bathroom, a dedicated bathroom for students that the family will not be using. There is space in the new building to add a bathroom, should they need it.

Commissioner Correll does not believe the structure should have been built before the request came before Planning and Zoning. She believes this could start an undesirable precedence. She asked if this structure needs sprinklers, since there will be children in the building and if the Fire Marshall needs to approve this structure. Ms. Patchell advised the building did not need to be approved by the Fire Marshall under the conditional use request.

Commissioner Collison asked for clarification concerning whether the applicant is requesting permission for a home-based business or a conditional use. Ms. Patchell advised the applicant is asking for either a conditional use as an educational institution or the Commission can re-evaluate the request to permit this as a home-based business, which does not require a conditional use hearing. Ms. Kelly clarified the original application was for a conditional use, which needs to be brought before the Planning and Zoning Commission. If this is considered a home-based business, technically it is

permitted and they do not need to come before the Planning and Zoning Commission. It is up to the Commissioners to decide whether it falls within the definition of a home-based business and whether the building can be considered a residential structure. Ms. Kelly commented there is already a garage on the property and this is second garage. It was also mentioned that this business is not in the residential structure; this is a completely separate structure being joined by a breezeway. The breezeway is not included in the building permit.

Ms. Patchell advised the owner would be agreeable to place the restriction on the conditional use that no other business but the karate business (one business) may take place in the structure.

President Jefferson closed the Public Hearing at 8:10 P.M.

Ms. Kelly advised, Chapter 234 Section 24-C of the Town Code states that when considering conditional uses, the Commissioners must take into account the following required findings:

- (1) Is in harmony with the purposes and intent of the Comprehensive Plan.
- (2) Will be in harmony with the general character of its neighborhood considering density, design, bulk, and scale of proposed new structures.
- (3) Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties.
- (4) Will not cause objectionable noise, vibrations, fumes, odors, dust, glare, or physical activity.
- (5) Will have no detrimental effect on vehicular or pedestrian traffic.
- (6) Will not adversely affect the health, safety, security, or general welfare of residents, visitors, or workers in the area.
- (7) Complies with all other applicable standards, laws, and regulations in addition to the provisions of this chapter.
- (8) Meets all other additional requirements for certain conditional uses set forth in § 234-24F.

Commissioner Collison made a motion to deny the request for conditional use because it does not meet our intended use for R-1 zoning and also deny the request for a home-based business based on the findings of the Planning and Zoning Commission and their recommendation to the Commissioners of Bridgeville. Commissioner Correll seconded the motion. Motion carried.

The votes were recorded as follows: (an "aye" vote is to deny the request)

Commissioner Collison	Aye
Commissioner Correll	Aye
Commissioner Greason	Nay
President Jefferson	Aye
Commissioner Skala	Aye

The Conditional Use request was denied by a vote of four to one.

**B. RE-APPOINTMENTS TO THE BOARD OF ADJUSTMENT**

President Jefferson advised the Bridgeville Board of Adjustment terms of Mrs. Pam Slater and Ms. Joan Ochs will expire on January 8, 2010. They are both willing to serve another 3-year term. Commissioner Collison made a motion to re-appoint these residents to the Board of Adjustment. Commissioner Correll seconded the motion. Motion carried.

**XIII. SPECIAL REPORTS – OFFICE OF HIGHWAY SAFETY GRANT**

Police Chief Parsons advised there are two Office of Highway Safety grants for the Police Department. The first started on November 25 and continues until December 31; it is an \$800 DUI grant which includes 5 patrols. The second grant is for \$1,200 from January 9 – February 7 for 7 DUI patrols. Commissioner Greason made a motion to allow the Police Department to participate in the two Office of Highway Safety grants. Commissioner Correll seconded the motion. Motion carried.

Police Chief Parsons reminded everyone of the Bridgeville Volunteer Fire Company's 100<sup>th</sup> Anniversary Parade on Saturday, December 19<sup>th</sup> at 1:00 P.M. There will be an Open House at the Fire House immediately following.

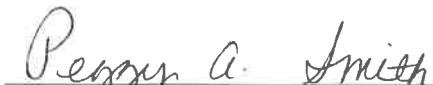
President Jefferson wished all the residents a Merry Christmas and Happy New Year from the Commissioners, Town Manager and Town employees. He also reminded everyone to participate in the Town's distribution of canned goods for the needy.

**XIV. ADJOURNMENT**

Commissioner Skala made a motion to adjourn the meeting. Commissioner Correll seconded the motion. Motion carried. The meeting was adjourned at 8:23 P.M.

Respectfully submitted,

  
Patricia M. Correll, Commission Secretary

  
Peggy A. Smith, Transcriptionist