Call to Order

The Regular Business meeting of the Kent County Levy Court was called to order at 7:00 P.M. by President Banta.

Invocation & Pledge of Allegiance

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

Moment of Silence for our Troops

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

Roll Call and Determination of Quorum

Bradley S. Eaby          Vice President
Allan F. Angel          Commissioner
Eric L. Buckson         Commissioner
Glen M. Howell          Commissioner
Terry L. Pepper         Commissioner
George W. Sweeney, Sr.   Commissioner
P. Brooks Banta          President
There are seven (7) Commissioners present.

Additions/Deletions to Agenda

There is one addition, one deletion and one change to the Agenda, states Mr. Banta. Addition will be under Presentations – Dental Award from NACo presented by Mr. Angel. On Page Two under Mr. Angel – appointment to the Pension Review Committee will be removed. Item under Mr. Buckson should actually be Mr. Sweeney.

Mr. Angel explained the deletion of the Appointment was due to the gentleman needing a special letter and it has not yet come through. He is a Broker and we need that letter before he can be appointed.

Adoption of the Agenda

M-163-13 Motion was made by Mr. Sweeney, seconded by Mr. Pepper and carried by Roll Call vote seven (7) yeas to adopt the Agenda as amended.

Consent Agenda 13-13

Items from the August 13, 2013 Committee Meetings:
The items on the Consent Agenda were discussed in Committee on Tuesday, August 13, 2013. They 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 this item unless a Commissioner so requests, in which event the item shall be removed from the Consent Agenda and considered separately under New Business.

- Civil Air Terminal Expansion – Kent County AeroPark Appraisal for Lots 1 through 4
- Wastewater Treatment Facility – Contract Award – Thioguard (Magnesium Hydroxide)
- Administrative Phone System Replacement; Martel Inc. Contract, Change Order No. 1, Coaxial/Security Cable Management
- Housing Rehabilitation Subordination Request > 90% (L.C. Policy 20-4 / Review of Subordination Agreements)

Pres. Banta wished to recognize the Mayor of the City of Dover, Carlton Carey, and Trish F., representing DAFB present this evening.

M-164-13 Motion was made by Mr. Pepper, seconded by Mr. Eaby and carried by Roll Call vote seven (7) yeas to adopt Consent Agenda 13-13 as presented.

Mayor Carey wished to thank Levy Court for stepping forward on this Cargo Terminal. It is a great economic development program for the County, City and State.
Trish wished to reaffirm what she said last week. DAFB is looking forward to a continuing partnership with the County, City and local community. We cannot ask for more support than we have received. We will continue to work with you on this project, doing what we can.

PRESENTATIONS

1. **ESGR** Extraordinary Employer Support Award

Mr. Petit de Mange had a few remarks. He and Pres. Banta attended the annual meeting of the Employers Support for the Guard and Reserve. We were honored to be the recipients of the 2013 award for Freedom Award semi-finalist. It is the highest award given by the local Delaware ESGR Group. We were astounded and humbled by the honor. He recognized the attendance of John Witske, a County Paramedic and Reservist and is the one responsible for us being nominated for this honor. Also present is Kevin Imhoff, Marty Stansbury and Ms. Gallo. Our Employee Council was pointed out by the ESGR for their extraordinary support for their colleagues. One of the things they do is when one of our Reservists are out on duty in the military they do various things for their families back home. A beautiful plaque was presented to Levy Court.

**Employee** of the Month

EOM for September 2013 is Nicole L. Vautard. This was read into the record by Ms. Tanaka. Nicole has been an employee of the County since February 2004 and is a Secretary in the Emergency Management Div. She has many chores and remains on post during activation of EOC during pending weather emergencies. Nicole is also the manager of a statewide asset management tracking and identification program sponsored by the State and managed through our Emergency Management Div. She resides in Commissioner Buckson’s and Pepper’s districts. She, her husband and others came forward for the presentation.

**Dental Award**

Mr. Angel attended the NACo meeting in Ft. Worth, TX. It was with honor and pleasure that we were recognized for the dental service here in Kent County. We were one of the test pilot programs. This is the first annual Regions Award for the National Assoc. of County Dental Program. It was presented at the 70th annual NACo Conference in Ft. Worth. He also wished to let everyone know they have passed the two million dollar mark on the prescription program.

**INTRODUCTIONS**

Mr. Kujala stated there are two new employees. One will be introduced by Chief Colin Faulkner, Public Safety Dir. and the other by Hans Medlarz, Public Works Dir.
Chief Faulkner introduced Kenneth Kelly who was hired August 5, 2013 as a Paramedic I, Dept. of Public Safety. Kenny and his wife and two sons live in Commissioner Sweeney’s and Pepper’s districts.

Mr. Medlarz introduced Mark Bartlett who was hired July 24, 2013 as a Custodian in the Dept. of Public Works – Facilities Management Div. He currently lives in Commissioner Banta’s and Pepper’s districts.

PUBLIC HEARINGS

Mr. Howell:
1. **Ordinance LC13-12**, An Ordinance amending Ordinance No. 12-11 in order to authorize the issuance of up to $325,000 additional General Obligation Debt for Kent County in connection with the East Dover Wastewater Construction Project

Mr. Medlarz gave a brief summary. On the surface it looks as though we are spending more money but as discussed this is a temporary measure for the expansion of the East Dover Sewer District. We are pleased to announce the State of DE through the State Revolving Loan Fund is infusing into the project an extra $325 thousand which we do have to put on the books as debt but only during construction. When construction is completed we will receive loan forgiveness and it will be taken off the books. Because there have been a number of violations with the ground water discharges section DNREC has asked us to assume the pumping and hauling operations on an emergency basis.

Public Hearing is Open on Ordinance LC13-12

IN FAVOR

None

IN OPPOSITION

None

Public Hearing is Closed on Ordinance LC13-12

**M-165-13 Motion** was made by Mr. Howell to approve Ordinance LC13-12; seconded by Mr. Angel.

Roll Call:

Mr. Angel – yes
Mr. Buckson – yes, positive comments; no public opposition

Mr. Eaby – yes, reasons stated and funding for this project will not fall on Kent County Levy Court

Mr. Howell – yes, reasons stated; temporary measure; hopefully everything will be wrapped up in 12 – 15 months.

Mr. Pepper – yes, reasons stated; this should make life better for large number of people

Mr. Sweeney – yes, reasons stated

Mr. Banta – yes, reasons stated and no opposition

Roll Call reveals seven (7) affirmative votes.

Mr. Banta:
1. Resolution 3397, A Resolution establishing Green Hill Farm Estates Street Light District No. 177

Mr. Medlarz: District comprised of number of phases; 1st Phase/25 lots and includes the original farm house parcel; request from Developer was to carve out that particular parcel and not include it in the street light district; if you benefit from a service you cannot be excluded from paying for it; there will be a street light in front of the property so you are benefiting from the service; despite the request was made, in my opinion and hopefully you concur, you cannot carve out a parcel which receives the benefit other people pay for; in essence we recommend you approve the district without carve outs; lot 50 should be included; the cost is about $126 per year including our service fee for Phase One; it will drop as future phases are developed.

Mr. Pepper asked why that particular parcel felt they should be carved out. Is that a previous owner or what is the story?

Previous owner, answered Mr. Medlarz.

So his property was developed around, asked Mr. Pepper?

It is now a recorded lot in the subdivision, said Mr. Medlarz; there is no good reason to carve it out; he just doesn’t want it.

Mr. Buckson was under the impression it was developer owned. You are stating one house or one lot is owned by an individual who has received a petition and signed no, they don’t want it?
Yeah, he didn’t want it, answered Mr. Medlarz.

Most votes come from the Developer who owns all of them but evidently someone in this development already owns a lot and they voted no, asks Mr. Buckson?

They did not sign the petition, said Mr. Medlarz. We were made aware he did not want the service; that still leaves you at 99 point whatever percent.

The percentage is there; person is directly inside the development, says Mr. Buckson. It is virtually impossible to carve them out.

**Public Hearing is Open on Resolution 3397**

**IN FAVOR**

None

**IN OPPOSITION**

None

**Public Hearing is Closed on Resolution 3397**

**Gavel handed to Vice President**

**M-166-13 Motion** was made by Mr. Banta to approve Resolution 3397 A Resolution establishing Green Hill Farm Estates Street Light District No. 177 with no carve outs; seconded by Mr. Pepper.

Roll Call:

Mr. Angel – yes, reasons stated

Mr. Banta – yes, well thought out; had all signatures; appropriate we do this

Mr. Buckson – yes, reasons stated

Mr. Howell – yes, explanations given were acceptable; no opposition

Mr. Pepper – yes, reasons stated; no carve outs and doing this will not cause hard feelings by other residents in future

Mr. Sweeney – yes, reasons stated

Mr. Eaby – yes, reasons stated
Roll Call reveals seven (7) affirmative votes

2. **Resolution 3396**, A Resolution establishing Green Hill Farm Estates Garbage Collection District No. 177

Mr. Medlarz stated the same petitioner asked to be excluded; in this case, if so inclined, you could exclude this property and we would not deliver any trash container to them; in principal we shouldn’t do this but it is possible to do it – not provide the service; super majority; developer signed; 130 some lots and one, Lot 50, does not want the service.

**Public Hearing is Open on Resolution 3396**

**IN FAVOR**

None

**IN OPPOSITION**

None

**Public Hearing is Closed on Resolution 3396**

**M-167-13** Mr. Banta moved to approve Resolution 3396 A Resolution establishing Green Hill Farm Estates Garbage Collection District No. 177; seconded by Mr. Pepper.

Roll Call:

Mr. Angel – yes, reasons stated by Staff and Pres. Banta

Mr. Banta – yes

Mr. Buckson – yes, reasons stated

Mr. Howell – yes, reasons stated

Mr. Pepper – yes, reasons stated

Mr. Sweeney – yes, reasons stated

Mr. Eaby – yes, reasons stated

Roll Call reveals seven (7) yeas.
Mr. Eaby:  
1. Resolution 3400, FY14 Delaware Transit Corporation Reimbursable Transportation Budget

As discussed last week, said Ms. Durham, this is a Resolution allocating to different Sr. Centers. Everyone is receiving more than they spent with COLA in 2013, with the exception of the Kent-Sussex Industries, and includes $50 thousand extra for the MMC.

The $50 thousand was for the bus, correct, asked Mr. Angel?

Yes, but on this Resolution, and I did not notice this before, the $50 thousand is actually included in their $286 thousand, said Ms. Durham. It should not be at the bottom; the total is correct.

IN FAVOR

None

IN OPPOSITION

None

Public Hearing is Closed on Resolution 3400

M-168-13 Motion made by Mr. Eaby to approve Resolution 3400 the FY14 Delaware Transit Corporation Reimbursable Transportation Budget on the grounds of no public opposition and the methodology adopted by the Finance Dept. and the County Administrator was herein logical in the distribution of the funds; seconded by Mr. Angel.

Roll Call:

Mr. Angel – yes, reasons stated

Mr. Buckson – yes, reasons stated

Mr. Eaby – yes, reasons stated

Mr. Howell – yes, reasons stated

Mr. Pepper – yes, reasons started
Mr. Sweeney – yes, reasons stated

Mr. Banta – reasons stated, yes

Roll Call reveals seven (7) yea's.

CLOSE PUBLIC HEARINGS

OLD BUSINESS

None

NEW BUSINESS

Mr. Angel:
1. **Appointment** to the Pension Review Committee - **DELETED**
2. **Action Item from the August 13th** Administration Committee Meeting:
   Central Delaware Mentoring Program

Mr. Angel stated he had asked for an extra $5 thousand during discussion. He believed Mr. Pepper was the one who said they could look at it towards the end of this year. I see it going on for the Community Service Grant for January. Is that in addition to or instead of?

Mr. Petit de Mange said what was in the packet is the same Memo reviewed in Committee. If you are inclined to want to incorporate the additional provision to review this in January, which is the six month mark in the budget year, for a possible additional contribution then we would need to have you add that to your motion. The motion suggested does not reflect that additional review in January for an additional allocation if our contingency fund would warrant using it at that time.

Mr. Buckson wished to confirm the expectations. The expectation is we are making a $5 thousand commitment; fair enough; I support it. You will probably make a motion to look at another $5 thousand commitment in x amount of months. The more important expectation though - is their expectation then that we include that in our grant and aid process as $10 thousand yearly? Is that your expectation; is that ours?

No, said Mr. Angel, that is a different process.

More in line as a one time $10 thousand expectation, asked Mr. Buckson?

Yes, said Mr. Angel.
Then our expectation down the road would not be an annual $10 thousand contribution, asked Mr. Buckson?

Correct, said Mr. Angel.

**M-169-13 Motion** was made by Mr. Angel to authorize a payment of a financial contribution to the Central Delaware Mentoring Program from FY2014 Budget General Fund Contingency in the amount of $5,000.00 with an additional review in six months for an additional $5,000.00 for one time; seconded by Mr. Howell; carried by Roll Call vote seven (7) yeas.

**Mr. Buckson: changed to Mr. Sweeney**

1. **Introduction of Resolution 3401, Pinehurst Village (Section II and III) Street Light District No. 127A** for public hearing on Tuesday, September 10th at 7PM

Pinehurst Village is at the convergence of Irish Hill RD and Fox Chase RD; used to be in Mr. Buckson’s district prior to 2010. Mr. Buckson has worked with these homeowners and continues to do so in trying to get some resolution for the homes for those who have already built in the development. Both of us have been in contact with the Developer with no measureable movement in assisting those homeowners in their issues. They are considerable issues; at this point I will not introduce Resolution 3401 pending some type of action with the Developer to make some movement on resolving homeowner issues in the development.

Mr. Banta said this was scheduled for a Sept. 10 Public Hearing. Do you think there is a chance for resolution before that time or not?

No, answered Mr. Sweeney.

**Mr. Eaby:**

1. **Appointment** to the Kent County Metropolitan Planning Organization, Public Advisory Committee (MPO-PAC)

Mr. Eaby stated this is to switch the appointees to the MPO. There was a named person, Mr. Yingling, who would send as his alternate Mr. Tucker. The By-Laws are such of the MPO that that can only go on as a temporary basis. We will flip-flop it and make Mr. Tucker the primary and Mr. Yingling the alternate. **That is the resolution I present.**

So you are now appointing Mr. Tucker, asked Mr. Banta?

That is correct, answered Mr. Eaby.

Seconded by Mr. Angel; carried by Roll Call vote seven (7) yeas.
OTHER BUSINESS

2. Move to go into Executive Session immediately following the Committee Meetings on Tuesday, September 3, 2013, 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)

Mr. Eaby moved to go into Executive Session immediately following the Committee Meetings on Tuesday, September 3, 2013, 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 seen (7) yeas.

INFORMATION ITEMS

This morning Mr. Banta greeted all the new teachers at the Smyrna School District. Many elected officials were present; was happy to be part of the program.

Mr. Eaby attended the Capital School District opening day ceremony; speaker was a well recognized person from across the US who helps teach teachers how to keep children well disciplined. A study was done and two things came out of it – 1) young boys are not very good at sitting still in a class for six hours, in case anybody didn’t know that and 2) young women work much better in groups than do young boys.

Mr. Sweeney said he would not be able to attend the CR breakfast on Friday because the president of his college is having his welcome ceremony breakfast the same time. Also, please keep Charlotte Lindquist and family in thoughts and prayers; she unfortunately lost her mother.

Mr. Angel said this expert at Capital this morning, when giving some data, actually used a school that had forty-two kids with behavioral problems and by the time it was done there were only two kids with behavioral problems. It did work, the things she was bringing. Also, finally got meeting with Dr. Thomas about the gyms and some other things coming in the community. I will say, as a former school board member and Dover grad there are a lot of new faces in Capital and they are the only school in the State that has been much approved and received money for that. Looks like Race to the Top is working.

In the line of full disclosure, said Mr. Pepper, I need to let you know my daughter is a teacher at South Dover Elementary.
Kathy Samardza, Hartly, DE – Dog control still on table; she read her letter; has been told some may be willing to consider handling dog control directly; don’t believe it is possible to do it before the contract with Safe Haven ends; we all know only one organization is interested in the contract; before signing with anyone I have six questions; whoever you sign with will they be authorized only for Title 9 Dog Control or will they be authorized to enforce the Kent County Ordinance of only four domestic animals per household; will they be authorized to enforce the K. Co. noise ordinance for barking dogs; enter peoples homes; call child protective services when entering the homes; will they be authorized to rural areas or only respond to calls; these should all be spilled out in the contract and K. Co. residents should know exactly what the contract is authorized to do. Will they be sworn officers answering to Levy Court; how will people know if the contractor is there for the Dept. of Justice, Public Health or Kent County; will there be a way for residents to register complaints about the contractor to someone here at Kent County, not the organization because the contract authorizes them to act for the County and most complaints collected people have tried to resolve their issues with the organization first; will the contractor be required to break down their report on Kent Co. dogs and the disposition of those dogs whether than just put them in shelter statistics which includes cats, dogs, all three counties and animals that come through the veterinary clinic; separating out those numbers would give everyone a much clearer picture of just how many dogs are running loose in Kent Co.; will contractor be required to comply with the State shelter standard law; will there be someone specified to manage this contract; have been told recently the facts I bring to the table are boring or just details; have been told the complaints we’ve brought lack credibility because no one had stepped up to do anything about them; have also been told no one has the authority to do anything about them; have been told no one is saying the complaints are lies just that no one will do anything about them; I’m frustrated! Let’s forget facts and complaints and talk about feelings; she continued on with a scenario which was very upsetting and was a true story; it was the first person she interviewed; she hoped she didn’t bore anyone with facts. She gave Mr. Banta a copy of the list of questions she had just asked.

Doug Beatty, 50 N. Draper Cir., Meadowbrook Acres – I think where I have been coming from has been misunderstood; I have no heart burn with ending the contract with Safe Haven; once a vendor puts someone in debt bad enough to put a family business out that is time to cut the cord; he then talked about what happened to him this summer; he applauded Commissioner Sweeney’s proposal; thought it should be taken seriously.

Mr. Banta assured him the County would look into this very carefully.

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Mr. Banta assured him the County would look into this very carefully.

Comments passed between Mr. Eaby and Mr. Beatty ending with them to agree to disagree.
Carol Furr, Smyrna, DE - Retired teacher; thanked Mr. Banta for being at the school today; last minute decision to come this evening; know you are considering KCSPCA for the dog control contract; if that happens I pray you keep your eye on what is going on; my story is two years old; had a picture of dog taken in shelter July 13; he should have been euthanized; instead KCSPCA let him sit in a cage inside the shelter where public couldn’t see; half teeth missing the other half rotten; heavily matted; covered in fleas; skin irritated; I saw him on July 29 and he stuck his paw out to me; I asked for leash and took him outside; when back in saw in his bowl of kibbles, and she showed the size of them; dog was starving because with bad teeth could not eat what was being given to him; took him home and fed him every four hours and did this for several weeks; she then showed a picture of the dog after she had taken him in and cared for him. She continued on with another story. If you choose to have KCSPCA I hope you keep your eyes wide open.

Comments were made by Commissioner Buckson and Pres. Banta.

James Wilson – I was here the night you put Safe Haven on; listened to what they were saying and they were hinging on volunteers and grants; did not see how it would work; did not have dog in fight so said nothing; was here night they were terminated and when I went home found my wife had gotten a dog from Safe Haven; it had been mistreated; I’m here now because I listened to the money you gave Safe Haven, the money you are going to give SPCA; my problem is Kent County is getting a lot of dogs from somewhere; when they come in somebody should be supporting them; the money you put out is coming out of the taxpayer’s pocket; some way or other you should hold a person accountable when they get a dog; if you take it to SPCA or wherever you need to put up some money to support it so the public does not have the burden.

Again, Pres. Banta had comments.

COMMISSIONERS’ COMMENTS

Mr. Sweeney said earlier tonight we had a MPO change from a primary to alternate; we have had a change on the Parks & Rec. Advisory Comm. so am asking some advice. Mr. Long who used to be Mr. Eaby’s appointee has now moved into my district; since I have lost Mr. Hart he will now be my appointee and Mr. Eaby will have to look for someone new. Do I have to re-appoint him as my appointee?

Yes, was the answer given and Mr. Sweeney said he would get that done in the near future.

Mr. Sweeney said he was formally asking for a Committee meeting to discuss one of the options I have submitted for dog control to discuss that alternative prior to
making the final decision to move forward. I understand our next Committee meeting is Sept. 3. I am asking formally for Leadership to get that on a Committee.

Happy to do it, said Mr. Banta.

Mr. Angel believes there are still things that need to be looked into. With dog contract running out, the dogs we have, will they take them when they get the contract? A dog control person turned his badge in today; are we still providing the service and what is going on with it. Whoever gets the contract I hope we know where the money goes and we get answers. It didn’t go the way I had hoped the last time; there is no fighting; we are discussing issues; hope we keep our eyes and ears open and find something compatible. Dog control on either side is very emotional. We need to take the emotion out and do the right thing.

ADJOURN

M-172-13 Motion was made by Mr. Angel, seconded by Mr. Howell and carried by Roll Call vote seven (7) yeas to adjourn the meeting. 8:42 PM

Loretta L. Wootten
Kent County Clerk of the Peace

29 Del.C. §10004(e)(2). The Agenda items as listed may not be considered in sequence. This Agenda is subject to change to include additional items including Executive Sessions or the deletion of items including Executive Sessions, which arise at the time of the meeting.