

OFFICIAL MINUTES

MAY 19, 2014

The Regular Meeting of May 19, 2014, of Council for the Borough of Kennett Square was called to order at 7:00 p.m. in the Red Clay Room of the Kennett Fire Company No. 1, 423 Dalmatian Street, Kennett Square, Pennsylvania with President Leon R. Spencer, Jr. in the Chair.

Present: *President Leon R. Spencer, Jr.*
Vice President Danilo P. Maffei
Councilmember Geoffrey R. Bosley
Councilmember Brett M. Irwin
Councilmember George P. Plumley, III
Councilmember D. Lynn Sinclair
Councilmember Patrick B. Taylor
Mayor Matthew W. Fetick
Manager Brant Kucera
Borough Solicitor Julie Von Spreckelsen, Esquire

PUBLIC COMMENTS

John Thomas, 406 South Broad Street, stated that he is against chickens being raised in a small town. They are not pets and you can't tell them what to do plus they are dirty and destroy plants. Mr. Thomas referred to a recent article that he read stating that chickens also have a tendency to pass salmonella and that is something Council needs to take into consideration.

Councilmember Bosley asked Mr. Thomas to forward that article to Council.

REPORTS

PUBLIC SAFETY

Chief of Police Edward Zunino reported that 57 pounds of prescription drugs were collected by the Police Department during the National Prescription Drug Take Program in April. In addition, he advised that the Department is conducting at least one (1) dedicated speed detail per week. The Chief continued his report with the following statistics for the month of April 2014:

- Traffic Citations – 84; 45 were issued during the dedicated speed details.
- Written Traffic Warnings – 43.
- Criminal Arrests – 24.
- DUI Arrests – 1.
- Total Calls – 585, compared to 663 in April 2013.

Councilmember Irwin expressed his concern about the vandalism at the old Mushroom Canning building.

The Chief replied that this area is being patrolled.

The Manager noted that he has received compliments regarding the speed details.

The Mayor stated that the items discussed and addressed during the monthly Public Safety Committee meeting will now be included in the Public Safety Report. The Committee consists of the Mayor, Chief of Police, Borough Manager, two (2) Councilmembers, Director of Public Works, Streets Department Foreman, and the Fire Chief. They meet on the second Wednesday of each month. Some of the items that the Committee is currently working on consist of the following:

- The weekly dedicated speed details as reported by Chief Zunino.
- The potential of installing a gateway on North Union Street to produce traffic calming measures.
- The installation of stop signs on Magnolia Street at South Garfield Street due to speeding traffic and minimal sight distance.
- Evaluating the need for sidewalk repairs and/or the installation of sidewalks for public safety reasons.
- The 100 block of Center Street is being transformed into a one-way, south bound. This is a 90 day trial period during which time the impact of traffic will be evaluated. Making this block a one-way has eliminated the sight distance problem at State Street and increased the number of parking spaces.

The Mayor advised that he will continue to update Council on these items in addition to new items.

PUBLIC WORKS/FINANCE COMMITTEE

Councilmember Bosley reported the following from their meeting in April 2014:

- Reviewed and spot checked invoices.
- Spring clean up held on April 12th was very successful.
- Yeatman Well project is progressing.
- Cypress Street is moving along; the revised design plans are expected in the next week or two (2).
- Closed Loop – the work on the curbs and sidewalks will begin in May. They will start with the intersection at State Street and Mill Road. In addition, the extension to the end of December but may not be needed.
- Capital Improvement Plan was reviewed. Completed items were removed and the others were prioritized.
- The Manager met with KAPA Board regarding the schedule for the Borough to remove the old Public Works building.

CONSENT ITEMS

MINUTES of MAY 5, 2014

President Spencer presented minutes from May 5, 2014.

It was moved by Councilmember Irwin and seconded by Councilmember Sinclair to approve the minutes as presented. Motion carried unanimously.

BILLS

President Spencer presented the bills to be paid on May 19, 2014 and the bills that were paid since the last meeting.

It was moved by Vice President Maffei and seconded by Councilmember Taylor to approve the bills as presented.

Councilmember Bosley advised that these invoices were reviewed by the Public Works/Finance Committee at their meeting this past Friday.

Motion carried unanimously.

PUBLIC MEETING

PROPOSED HISTORIC DISTRICT ORDINANCE, ACT 167 COMPLIANCE DESIGNATING the KENNETT SQUARE HISTORIC DISTRICT and CREATING a HISTORICAL REVIEW BOARD (HARB)

President Spencer advised the purpose of the Public Meeting is to discuss a proposed ordinance amending the Kennett square Borough Code by repealing Chapter 2, Administration, Article VI, Historical Commission in its entirety and adding a new chapter, Chapter 25 Historic District.

The Borough Solicitor opened the public meeting at 7:24 p.m.

Vice President Maffei advised that the proposed ordinance will replace the four (4) member Architectural Review Board (ARB) and the seven (7) member Historical Commission with a single seven (7) member board. The existing boards have overlapping jurisdictions and draw from the same skills and interests from an already shallow pool of willing volunteer resources. The ARB is currently serving without its required architect position because none reside within the Borough. The proposed ordinance would allow us to draw from professionals outside the Borough so long as a majority of the board are Borough residents; all board members must be appointed by Council.

President Spencer referred to section 25.7.1.b and questioned if this person has to be a broker or agent?

The Mayor advised that a very small amount of all licensed realtors in Pennsylvania are brokers. In New Jersey, all agents are brokers but in Pennsylvania, only about ten percent (10%) of agents are brokers.

The Solicitor stated that she would like to run this question by PHMC because the wording was taken out of State Statues.

John Thomas, 406 South Broad Street, stated that this is a well written ordinance however he would like to see that the real estate representative be an agent and not a broker.

Carol Krawczyk, 521 West State Street, read aloud the letter she addressed to Council, dated May 18, 2014, and asked Council to vote against the proposed HARB ordinance as it is written. Her main concern is the map that contains two (2) separate zones.

Lynn Brenner, tenant at 143 West Mulberry, stated that she is very interested in what is going on in the Borough because she may consider purchasing a home here. She loves the old homes and preservation but believes looking into an applicant's personal finances is inappropriate even if they are claiming financial hardship. In addition, she believes the value of the property should also be considered. Ms. Brenner stated that we are on a good path to improve the prior ordinance but we are not there yet and she does not wish for Council to approve of the ordinance in its current state.

Doug Doerfler, 315 South Union Street, thanked Vice President Maffei and Councilmember Sinclair for keeping everyone in the loop in this ordinance process. He supports the ordinance as it is currently written and if issues come up in the future then they can be addressed at that time.

Ann Einstein, 119 East Linden Street, expressed her opinion that property values in the Borough of West Chester are not a comparable to those in Kennett Square. She continues to feel that this ordinance is government overreach and urged Council to vote against it.

Elea Feit, 222 South Union Street, member of the Historical Commission and Architectural Review Board advised that it can be burdensome with the current two (2) boards, Historical Commission and the Architectural Review Board. The ordinance would combine these boards into one in addition to adding a tremendous amount of clarity of the role of the board. Ms. Feit urged all of Council to support the ordinance.

Vice President Maffei said that there were good points brought up by the public and thanked everyone for speaking them for speaking. In response to Ms. Krawczyk's comments, he noted that there is only one (1) historic district, the National Register Historic District. It was delineated in the 1980's by a third party through exhaustive study of all architecture resources and features of the entire Borough. The Task Force agreed to keep the Historic District exactly as it exists today. There is only one set of design criteria for both zones. Zone A, which is primarily our C-1, the HARB would review the entire property. In Zone B, which is almost entirely residential, the HARB would only review the facade of the home and any part of an out building that is visible from the street.

In response to Ms. Brenner's comments, Vice President Maffei referred to section 25-12, Review Criteria, (11) Financial Feasibility, (A) which states financial feasibility shall be determined by the HARB on the basis of an unreasonable cost for repair or replacement in-kind of whole or part of a building or structure, and (C) the cost of implementing its recommendation relative to the market value of the building or structure. When it comes to financial hardship, Vice President Maffei stated that the only time the HARB would look into personal financial documents is if the applicant is claiming unreasonable economic hardship.

Vice President Maffei congratulated Mrs. Einstein on receiving the 2014 Historic Preservation Award. In response to her comments regarding property values, Vice President Maffei stated that he would touch on that topic when the ordinance is presented for adoption.

In response to Ms. Feit's comments, Vice President Maffei stated that we are looking to relieving some of the strain on our already burdened volunteer base within the Borough.

Vice President Maffei stated that at this point our Certified Local Government (CLG) status is in jeopardy due to our conflicting current zoning preservation ordinances. If we do

not fix our ordinance then our CLG status will be revoked making us ineligible for certain grant funding.

The Solicitor advised that the state has reviewed this proposed HARB ordinance and they are satisfied. She suggested that instead of changing the word “broker” to “agent” that the wording be changed to “licensed real estate broker or agent”.

The Solicitor closed the public meeting at 7:58 P.M.

**PUBLIC MEETING
FAIR HOUSING AMENDMENTS, BOROUGH CODE, CHAPTER 3,
ANIMALS and FOWL, and CHAPTER 11, MOTOR VEHICLES and TRAFFIC**

President Spencer advised the purpose of the Public Meeting is to discuss the proposed ordinance amending the Kennett Square Borough Code, Chapter 3, Animals and Fowl, Sections 3-1 Definitions, 3-4 Prohibiting pets to run at large in the Borough or to be present at special events in the Borough, and 3-5 prohibiting annoyance and disturbance by dog barking; and Chapter 11 Motor Vehicles and Traffic, Section 11-20 Manner of parking at curb, allowing reasonable accommodations for persons with disabilities.

The Solicitor gave a background on the proposed ordinance stating that County of Chester authorized the Fair Housing Rights Center in southeastern Pennsylvania to conduct a comprehensive review of the entire Kennett Square Borough Code to determine whether the provisions in each of the chapters conform to the requirements Fair Housing Act, the American Disabilities Act and the PA Relations Act so not to discriminate against people with disabilities.

The Solicitor advised that Chapter 23, Zoning, is under review by the Chester County Solicitor and a Public Hearing will be scheduled to adopt those amendments.

The Solicitor opened the Public Meeting at 7:59 p.m.

John Thomas, 406 South Broad Street, questioned what happens if a service dog is barking out of control.

The Solicitor replied that the Borough is obligated to make reasonable accommodations for all service dogs.

The Solicitor closed Public Meeting at 8:03 p.m.

**PROPOSED ORDINANCE
PROPOSED HISTORIC DISTRICT ORDINANCE, ACT 167 COMPLIANCE
DESIGNATING the KENNETT SQUARE HISTORIC DISTRICT and
CREATING a HISTORICAL REVIEW BOARD (HARB)**

President Spencer presented the ordinance amending the Kennett Square Borough Code, repealing Chapter 2, Administration, Article VI, Historical Commission in its entirety; and adding a new chapter, Chapter 25 Historic District:

Section 1: Section 1 amends Chapter 2, Administration, by repealing Article VI, Historical Commission, in its entirety.

Section 2: Section 2 amends the Code by adding a new Chapter 25 Historic District. Chapter 25 Historic District creates the boundaries of the Historic District; provides definitions and regulations; provides the powers and duties of the codes enforcement officer; establishes and provides the duties and powers of the Historical Architectural Review Board; sets forth the building permit application review process, including in-kind approvals, evaluation criteria, claims of unreasonable economic hardship, and required findings and report by the Historical Architectural Review Board; provides the time limit for approval or disapproval of a certificate of appropriateness; provides an appeal period; and adopts the Historic District Map.

Section 3: Section 3 incorporates and declares the Kennett Square Historic District Map as a part of Chapter 25.

Section 4: Section 4 provides that all other sections, parts, and provisions of Chapter 2, Administration, of the Borough Code, shall remain in full force and effect; and that the ordinance will supersede the provisions of Chapter 23, Zoning, Article IX, Preservation of Historic Resources.

Section 5: Section 5 provides that the ordinance supersedes all ordinances inconsistent with the amendment.

Section 6: Section 6 provides that if any provision in the amendment is invalid, the remaining provisions shall remain in full force and effect.

Section 7: Section 7 provides the effective date of the ordinance.

It was moved by Vice President Maffei and seconded by Councilmember Sinclair to approve the ordinance as presented.

Vice President Maffei talked about the diversity of homes within the historic district. Those who own these homes care about them but more and more are attractive for investments and the buyers may not have the best interest of the Borough at heart. He shared the data of the increase of property value in Hollidaysburg after they had adopted a preservation ordinance. Vice President Maffei reported that there are currently 12 homes for sale or rent in the Borough's Historic District and shared the positive points of these listings.

Vice President Maffei stated that out of the 15 boroughs in Chester County only West Chester, Phoenixville, Kennett Square and Oxford have an active Mainstreet organization. West Chester and Phoenixville have a preservation ordinance and Oxford is seeking to adopt one. He also commented that it is our unique heritage that sets us apart from the boroughs such as Oxford and Avondale.

Councilmember Plumley stated that he believes that it is economic development that has contributed to the growth of these boroughs.

A discussion ensued.

President Spencer stated that as an elected official he is obligated to listen to the constituents and many of his constituents have urged him not to approve this ordinance. He is not in favor of sharing personal financial documentation as it pertains to economic hardship. There seems to be a lengthy appeal process and he believes it will add to the burden of work load in the Codes Department. President Spencer shared his appreciation for the hard work and dedication that went into this ordinance but does not support it as it's currently written.

Vice President Maffei reiterated that personal financial documentation would be required to be provided only if an applicant chooses to apply for the financial hardship. He added that the Codes Department is currently involved in the review process.

Russell Drumheller, Codes Enforcement Officer, stated that the MPC allows 15 days to review plans but it normally it takes just three (3) to five (5) days.

Vice President Maffei stated that we need to lay ground rules to historic preservation as presented in this ordinance.

The motion did not carry with of vote of 3 to 4 and the ordinance was not adopted. Roll Call of votes was as follows: Councilmember Sinclair, Vice President Maffei and Councilmember Irwin voting yes; and President Spencer and Councilmembers Taylor, Plumley and Bosley voting no.

ORDINANCE No. 908
FAIR HOUSING AMENDMENTS, BOROUGH CODE, CHAPTER 3,
ANIMALS and FOWL, and CHAPTER 11, MOTOR VEHICLES and TRAFFIC

President Spencer presented the ordinance amending the Kennett Square Borough Code, Chapter 3, Animals and Fowl, Section 3-1 Definitions by adding the definitions of "Emotional Support Animal" and "Reasonable Accommodations"; by amending Section 3-4 Prohibiting pets to run at large in the Borough or be present at special events in the Borough, by adding provisions allowing reasonable accommodations for emotional support and service animals; by amending Section 3-5 Prohibiting annoyance and disturbance by dog barking, etc., by adding a provision allowing reasonable accommodations for emotional support and service animals; and by amending the Kennett Square Borough Code, Chapter 11 Motor Vehicles and Traffic, Section 11-20 Manner of parking at curb, by adding a provision allowing reasonable accommodations for persons with disabilities:

Section 1: Section 1 amends Chapter 3, *Animals and Fowl*, Article I, section 3-1 of the Code, by adding definitions for emotional support animal and reasonable accommodations.

Section 2: Section 2 amends Chapter 3, *Animals and Fowl*, Article II, Division 1, section 3-4 of the Code, to allow emotional support and service animals at special events in the borough.

Section 3: Section 3 amends Chapter 3, *Animals and Fowl*, Article II, Division 2, section 3-5 of the Code, to allow reasonable accommodations for emotional support and service animals.

Section 4: Section 4 amends Chapter 11, *Motor Vehicles and Traffic*, Article III, Division 1, section 11-20 of the Code, to allow reasonable accommodations for persons with disabilities.

Section 5: Section 5 provides that all other sections, parts, and provisions of Chapter 3, *Animals and Fowl*, and Chapter 11, *Motor Vehicles and Traffic*, of the Borough Code, shall remain in full force and effect.

Section 6: Section 6 provides that the ordinance supersedes all ordinances inconsistent with the amendment.

Section 7: Section 7 provides that if any provision in the amendment is invalid, the remaining provisions shall remain in full force and effect.

Section 8: Section 8 provides the effective date of the ordinance.

It was moved by Councilmember Plumley and seconded by Councilmember Bosley to approve the ordinance as presented. Motion carried unanimously.

The ordinance was assigned No. 908.

CONTRACT NO. 1, PAYMENT NO.1, YEATMAN WELL PROJECT

President Spencer presented the request for Contract No.1, Payment No. 1, to Wickersham Construction for the Yeatman Well Project.

The Manager advised the payment amount is \$45,369.00 represents ten percent (10%) of the packaged water treatment plant

It was moved by Councilmember Plumley and seconded by Councilmember Taylor to approve the payment as presented. Motion carried unanimously.

PRESIDENT'S REPORT

President Spencer announced that this year's graduation ceremony for Kennett High School will be held on June 13th. The Kennett 55 Plus Games and Barbeque will be held at Anson B. Nixon Park, from 9:30 a.m. to 2:00 p.m. on Thursday, June 4th.

President Spencer advised that he met last week with Mr. Kramer and Ms. Bass of East Linden Street from the Historic East Linden Project (H.E.L.P.) organization. This organization is taking on a new name, the Joseph and Sarah Carter Community Development Corporation. Their annual Gala will be held on June 7th, from 10:30 a.m. to 12:30 p.m.

President Spencer commended all the members of Council and the Mayor for voluntarily serving and caring to make a difference. Often Council votes are unanimous however, when the votes are split, it is done so with good character. President Spencer stated that the preservation ordinance is not dead and believes it will be redirected.

President Spencer advised that approximately 1,500 runners participated in this year's Kennett Run. He thanked Kennett Run Charities, the Public Works Department, the Police Department and the Fire Company for their hard work in making this such a successful event for Kennett Square.

COUNCIL, MANAGER and MAYOR COMMENTS and ANNOUNCEMENTS

The Manager announced that he plans to hold the strategic plan workshop in June; he will follow up with an email.

The Manager reported that the old Public Works garage and concrete pad will be removed from Anson B Nixon Park; demolition of the garage is scheduled for this Wednesday. The old septic has been crushed and filled in.

The Manager advised that Joseph Scalise, Director of Public Works, has generated the overlay plan for the streets and he will forward the list to Council shortly.

The Manger announced that the Borough has been awarded a grant from the Pennsylvania Department of Environmental Protection (DEP). The total grant application was for \$231,980.42 to purchase special event recycling containers, residential recycling containers, Vermeer chipper, a percentage of reimbursement for the Dodge Ram 5500 and compostable leaf bags, and for costs associated with amending the Borough's recycling, solid waste and open burning ordinances. DEP's share is 90% and the Borough's match is approximately \$21,036.29. He thanked Karen Scherer, Borough Secretary, and Joseph Scalise, Director of Public Works, for their hard work on submitting this grant application.

Mayor Fetick advised that the Borough of West Chester recently adopted an ordinance allowing fowl, including chickens, in their borough however it prohibits the fowl from running loose.

ADJOURNMENT

It was moved by Councilmember Plumley and seconded by Councilmember Irwin to adjourn the meeting at 8:37 p.m.

Karen L. Scherer

Karen L. Scherer
Secretary