

OFFICIAL MINUTES

JULY 21, 2014

The Regular Meeting of July 21, 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

INFORMATIONAL MEETING

President Spencer announced that Council held an Informational Meeting at 6:30 p.m. this evening. This meeting was for informational purposes only regarding a funding request from the Kennett Fire Company.

PUBLIC COMMENTS

John Thomas, 406 South Broad Street, stated that he is confused about the support letter to PA DEP regarding the grant of the brownfield funding. He does not understand why the property would have to be transferred to the Borough when the property owner is permitted to apply for the funding without the Borough's involvement. In addition, Mr. Thomas believes there are mistakes in the letter and is fearful because the letter is part of the grant application process which began when the Borough submitted the letter to DEP. Mr. Thomas stated that he is up front and honest and does not appreciate that persons do not return his telephone calls.

President Spencer stated for the record that he had returned Mr. Thomas' call.

Leslie Whiteside, 802 Wayne Avenue, asked if the Borough's grant application to PA DEP is for the cost to clean up the property at 410 West State Street and why the Borough is applying and not the property owner.

The Manager advised that the Borough will not be applying for the brownfield grant funding from PA DEP for 410 West State Street however he explained the process to Ms. Whiteside; when municipalities apply for this particular type of funding DEP requires that the property be transferred to the municipality and then transferred back to the owner after the project has been completed.

Marcia Melton, 501 Worrall Avenue, expressed her concern of the activity in her neighborhood. She has witnessed arguments in public, work vehicles and trailers parked on the street for long period of times, and fights in her front lawn. Ms. Melton is beyond annoyed and is at a loss of what can be done to end this activity.

President Spencer directed Ms. Melton to speak to the Mayor after this meeting and asked Corporal Wills to take note of Ms. Melton's concerns.

Robert Whiteside, 802 Wayne Avenue, stated that vehicles are speeding on Wayne Avenue and noted that there are no speed limit signs on this street. He asked Council to consider installing stop signs on Wayne Avenue where it intersects with Worrall Avenue. Mr. Whiteside felt that nothing has been done since the residents expressed concerned in a Council meeting back in April. He believes the decline in his neighborhood began when investors began purchasing residential properties. Mr. Whiteside referred to a complaint from his wife regarding a bush obstructing a stop sign and feels that the problem was not dealt with in a timely matter. He would like Worrall Avenue to be repaired especially where it intersects with South Mill Road. Mr. Whiteside does not feel that landscaping had to be done at the new Public Works facility. He asked if Vice President Maffei did the landscaping and if he was paid for his services.

The Manager replied that Vice President Maffei did the landscaping at the facility and that he was not compensated.

Mr. Whiteside expressed his dissatisfaction that the Borough landscaped the property that it rightfully owns on West South Street because the neighboring property owner has been using it for years. In addition, Mr. Whiteside also believes that there is a conflict of interest when elected officials are realtors.

Tony Talamonti, 584 East Cypress Street, stated that the YMCA is taking up more of our one (1) square mile and the Borough should be compensated. He added that the Borough should be receiving a fee for each membership to keep our taxes from going up. At least 70% of the YMCA members can afford to belong to a regular gym so he questioned why we are supplementing them. He believes a YMCA this size should be on 20 acres located in a township. Mr. Talamonti stated that his sidewalk is deteriorating and questioned if he is responsible for the repairs.

The Manager replied to Mr. Talamonti stating that as the property owner, he is responsible for repairs of his sidewalks.

REPORTS

KENNETT AREA PARKS and RECREATION BOARD (KAPRB)

Claire Finrock, Program Director, reported the following:

- KAPRB is grateful for the 59 businesses that sponsored banners in Herb Pennock Park this year.
- Adult softball leagues are well underway.
- KAPRB participated in the Together for Education Fair on May 31st and the Open Houses held at the various schools in the Kennett School District.

- They managed the food tent for this year's Kennett Run.
- KAPRB's Summer Camp is very successful again this year.
- Summer clinics include Field Hockey, Basketball and Volleyball.
- Over 100 children participated in the Kids Cross Country Run held on July 17th in Anson B Nixon Park. Funding from the Mushroom Festival and the Kennett Run along with a sponsorship from Sinton Heating and Air Conditioning helped offset the cost.
- The Mushroom Festival 5K Run and 2 Mile Walk will be held on Sunday, September 7th. They are working on sponsorships for this event.
- She thanked the Borough for their support of the Legacy Field project; KAPRB utilizes the field immensely.
- She also thanked Council for their continued support and Karen Scherer for her assistance with KAPRB's grant applications.

PUBLIC SAFETY

POLICE DEPARTMENT

Corporal Wills reported the following statistics for the month of June 2014:

- Traffic Citations – 49.
- Written Traffic Warnings – 50.
- Criminal Arrests – 28.
- DUI Arrests – 2.
- Total Calls – 616, compared to 630 in June 2013.

FIRE COMPANY

Fire Chief Steven Melton reported the following statistics for January through June, 2014:

- Ambulance Calls – 566.
- Fire Calls - 228.
- They have held 792 man hours of training in house.

The Chief added that they currently have 50 active members and although they struggle for volunteers during the day, they always respond to every call.

PUBLIC SAFETY COMMITTEE

The Mayor advised that the Public Safety Committee normally meets on a monthly basis to address public safety matters. If residents have concerns then they should report those concerns to Chief Zunino so they can be presented to the committee. Items of public safety concern are tracked on an action list which is available for Council via their iPads.

PUBLIC WORKS/FINANCE COMMITTEE

Councilmember Bosley reported the following from the Committee's meeting in April 2014:

- The invoices were reviewed.
- Plans underway to install school speed limit signs around Mary D. Lang Kindergarten Center.
- The Closed Loop Project is moving along quickly. Waiting on PennDOT's approval for the light poles which will then take approximately four (4) months to construct.
- The Yeatman Well is moving forward; the building should be installed in July with the anticipation that the well will be online in August.
- The pavement at Grant Way has failed because the contractor did not install the proper thickness nor was it compacted per specifications. The contractor will be re-installing the pavement at no cost to the Borough.
- Temporary employees were hired for the summer in the Public Works Department to help with plantings, lawn mowing and curb painting.
- Waiting to hear back from the County regarding the additional \$285,000 grant fund request to replace the water main on Cypress Street.
- The 2014 road repairs and repaving will start soon and run through the fall.

CONSENT ITEMS

MINUTES of JUNE 16, 2014

President Spencer presented minutes from June 16, 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 July 21, 2014 and the bills that were paid since the last meeting.

It was moved by Vice President Maffei and seconded by Councilmember Bosley to approve the bills as presented. Motion carried unanimously.

PUBLIC MEETING

AMENDMENTS to the KENNETT SQUARE BOROUGH CODE

CHAPTER 3, ANIMALS and FOWL, KEEPING of FOWL

Public Meeting is to discuss the proposed ordinance amending the Kennett Square Borough Code, Chapter 3, Animals and Fowl: Amending Article I, In General, Section 3-1 Definitions, to include a definition of Fowl; and amending Section 2-3 Prohibiting Livestock to run at large in the Borough or to be present at special events in the Borough by adding a new Subsection 3-2.1 Regulations for the Keeping of Fowl.

The Solicitor opened the Public Meeting at 7:52p.m.

Russell Drumheller went through the provisions of the amendments.

COUNCIL COMMENTS

Vice President Maffei asked Mr. Drumheller what model did he use to compile the ordinance.

Mr. Drumheller replied that it was a combination of online resources, County Ag and his personal experiences of raising fowl.

Vice President Maffei noted that Philadelphia, Reading, Harrisburg and York, Pennsylvania all permit chickens within their municipalities. During his research on this item, Vice President Maffei consulted with an individual who keeps chickens in a small town in South Dakota and who also works advocacy organization that helps municipalities get these types of ordinances processed. Vice President Maffei stated under this ordinance fowl includes chickens, hens, roosters, turkeys, ducks, geese, poultry and guinea fowl. He noted that guinea fowl can be quite noisy and questioned how that would be addressed.

Mr. Drumheller stated that any constant loud noise produced by any fowl will be considered a nuisance and addressed through our nuisance ordinance.

Vice President Maffei questioned if the ordinance should only pertain to chickens and that all other fowl be banned from the Borough.

Mr. Drumheller replied that he does not think other fowl will be a problem because the ordinance limits to the owner to four (4) fowl.

Vice President Maffei believes that resident will be eating their fowl at some point and asked if Chester County regulates the butchering.

Mr. Drumheller replied that butchers are required to be certified through the County; he can provide information on butchers in the area.

There was a discussion between Vice President Maffei and Mr. Drumheller regarding the necessity to heat the chicken coop.

Vice President Maffei questioned why a chicken coop must be 15 feet from property line and not just 3 as required for an accessory shed.

Mr. Drumheller advised that he based the 15 feet on the complaints he has received and the coops he has seen in the Borough.

Council Bosley stated that the 15 feet setback requirement makes sense because a standard shed does not make noise but chickens do. He added that not every lot in the Borough is suitable for raising fowl.

PUBLIC COMMENTS

John Thomas, 406 South Broad Street, stated that he has been against chickens all along and stated that this ordinance is a true compromise and he is satisfied with the 15 feet set back. Mr. Thomas believes geese, ducks, turkey and guinea fowl should be banned from the Borough.

Leslie Whiteside, 802 Wayne Avenue, asked how the current owners of chickens will be notified regarding the ordinance.

Mr. Drumheller replied that they will be notified by letter.

Ms. Whiteside asked if current chicken owners are grandfathered in.

Mr. Drumheller replied no.

Ms. Whiteside questioned how violators will be addressed.

Mr. Drumheller replied by written notices, citations and fines.

Ms. Whiteside asked if the fines increase with each offense if they do not comply.

Mr. Drumheller replied yes.

Ms. Whiteside questioned if repeat offenders would eventually have their chickens taken away.

The Solicitor replied that she would have to look into that.

Myra Miller, 301 Scarlett Avenue, asked if roosters are banned from the Borough.

Mr. Drumheller replied yes, roosters are banned.

Robert Whiteside, 802 Wayne Avenue, questioned if turkeys are allowed.

Mr. Drumheller replied yes.

Mr. Whiteside questioned what can be done if a turkey gobbles continuously.

Mr. Drumheller stated that it would be deemed a nuisance and would have to be removed.

Mr. Whiteside expressed concern of excessive feces from chickens.

Mr. Drumheller replied that this should not be a problem since they are limited to only four (4) chickens.

Mr. Whiteside stated that he is pretty satisfied with the ordinance and thanked Mr. Drumheller for his hard work.

Councilmember Irwin asked who is responsible for removing the fowl when and if it becomes a nuisance.

Mr. Drumheller replied that the owner is responsible.

The Solicitor closed Public Meeting at 8:26 p.m.

PUBLIC MEETING
AMENDMENTS to the KENNETT SQUARE BOROUGH CODE
CHAPTER 4, BUILDINGS and PLUMBING

President Spencer advised the purpose of the Public Meeting is to discuss the proposed ordinance amending the Kennett Square Borough Code, Chapter 4, Buildings and Plumbing, by amending Article II, Property Maintenance Code, Section 4-3, Additions, Insertions, and Changes.

The Solicitor opened the Public Meeting at 8:26 p.m.

Russell Drumheller, Code Enforcement Officer, went through the provisions of the amendments.

COUNCIL COMMENTS

There were no public comments from Council.

PUBLIC COMMENTS

There were no public comments from the floor.

The Solicitor closed Public Meeting at 8:28 p.m.

ORDINANCE NO. 910
AMENDMENTS to the BOROUGH CODE, CHAPTER 3, ANIMALS and FOWL
KEEPING of FOWL

President Spencer presented the ordinance amending the Kennett Square Borough Code, Chapter 3, Animals and Fowl: Amending Article I, In General, Section 3-1 Definitions, to include a definition of Fowl; and amending Section 2-3 Prohibiting Livestock to run at large in the Borough or to be present at special events in the Borough by adding a new Subsection 3-2.1 Regulations for the Keeping of Fowl.

Section 1. The Kennett Square Borough Code, Chapter 3, *Animals and Fowl*, article I, section 3-1, *Definitions*, is amended as follows:

- a. The following definition is added:

“Fowl” means birds that are barnyard, domesticated, or wild, including those valued for their meat and eggs, such as chickens, hens, roosters, pheasants, turkeys, ducks, geese, poultry, and guinea fowl.

- b. The following existing definitions are amended:

“Livestock” means any wild or domesticated animals of all species not normally kept as pets, as that term is defined herein, including,

but not limited to, horses, cattle, swine, sheep, goats, and other animals, but specifically excluding poultry and fowl.

“Run at large” means the presence of livestock upon any public highway, street, alley, park, or other public land, or upon the property of the owner or the property of another person or entity other than the owner, where the livestock is not accompanied by and under the immediate control of the owner or other person having custody of the livestock.

Section 2. The Kennett Square Borough Code, Chapter 3, *Animals and Fowl*, article I, section 3-2, is amended to include a new subsection 3-2.1 *Regulations for the keeping of fowl*, as follows:

3-2.1 Regulations for the keeping of fowl

(a) Permits.

- (1) Any Owner who keeps fowl shall obtain a permit from the Borough Codes Department prior to acquiring the fowl.
- (2) All permits shall be conditioned upon passing a mandatory inspection by the Codes Department.
- (3) The Codes Department may refuse to grant or may revoke a permit if the fowl are or become a nuisance.

(b) Each Owner holding a permit to keep fowl shall comply with the following:

- (1) No Owner shall keep more than 4 fowl.
- (2) No Owner shall keep a rooster.
- (3) No Owner shall keep any fowl inside a dwelling unit, an attached garage, or a detached garage.
- (4) No Owner shall slaughter fowl in the Borough of Kennett Square unless authorized by the county or state health department.
- (5) Fowl shall be provided a secure, predator-resistant, and well ventilated roofed structure providing a minimum of 3 square feet per fowl, and in compliance with the current zoning and building codes.
 - (A) The structure shall be fully enclosed, moisture resistant, raised off of the ground, or placed on a hard surface such as concrete, patio block, or gravel; and

have a heat source to maintain an adequate indoor temperature during extreme cold conditions.

- (B) The structure shall not exceed 50 square feet in area, nor 10 feet in height.
- (C) Fowl shall be kept in the structure or any attached fenced yard enclosure at all times. The structure and fenced yard together shall provide at least 16 square feet per fowl.
- (D) Fowl shall be kept in the structure from dusk until dawn. During daylight hours, fowl shall have access to the structure.
- (E) No structure or fenced yard enclosure shall be located within any front or side yard. No structure or fenced yard enclosure located in a rear yard shall be located closer than 15 feet to any abutting property line unless the Owner obtains written consent of the abutting property owner(s).
- (F) The structure and the fenced yard enclosure shall be kept in a clean, sanitary, and healthy condition.

Section 3. Except as amended by this ordinance, all other sections, parts, and provisions of the Kennett Square borough Code, Chapter 3, *Animals and Fowl*, shall remain in full force and effect as previously enacted and amended.

Section 4. Supersedeas. The terms hereof shall supersede the terms of all other ordinances or resolutions of the Borough inconsistent herewith.

Section 5. Severability. The provisions of this ordinance are severable. If any action, sentence, clause, part or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent that this ordinance would have been adopted as if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

Section 6. Effective Date. This amendatory ordinance shall take effect and be in force from and after its enactment. The enactment date of this amendatory ordinance is the date when the Mayor shall approve it, or the date of passage by the Borough Council over the veto of the Mayor. If the amendatory ordinance is not returned by the Mayor at the regular meeting of Borough Council, occurring at least ten days after the meeting at which such amendatory ordinance was passed by the Borough Council, the date of enactment shall be the date of such succeeding regular meeting of Borough Council.

It was moved by Councilmember Sinclair and seconded by Councilmember Plumley to approve the ordinance as presented with the adding the word “may” to Section 2(b)(5) (A) to read as follows:

3-2.1 Regulations for the keeping of fowl

(A) The structure shall be fully enclosed, moisture resistant, raised off of the ground, or placed on a hard surface such as concrete, patio block, or gravel; and may have a heat source to maintain an adequate indoor temperature during extreme cold conditions.

Motion carried unanimously.

The ordinance was assigned No. 910.

ORDINANCE NO. 911
AMENDMENTS to the KENNETT SQUARE BOROUGH CODE
CHAPTER 4, BUILDINGS and PLUMBING

President Spencer presented the ordinance amending the Kennett Square Borough Code, Chapter 4, Buildings and Plumbing, by amending Article II, Property Maintenance Code, Section 4-3, Additions, Insertions, and Changes.

Section 1. The Kennett Square Borough Code, chapter 4, Buildings and Plumbing, Article II, Property Maintenance Code, section 4-3, shall be amended as follows:

4-3 Additions, insertions, and changes.

- Section 202 GENERAL DEFINITIONS. Insert a new definition “INDOOR FURNITURE:

INDOOR FURNITURE. Furniture and similar objects that are not specifically designed by the manufacturer to withstand the elements or otherwise not intended for outdoor use.”

- Section 302 EXTERIOR PROPERTY AREAS. Insert a new sub-section 302.10 Furniture:

302.10 Furniture.

“The placement of indoor furniture at any location except inside a structure, residential or otherwise, shall be prohibited.”

Section 2. Except as amended by this ordinance, all other sections, parts, and provisions of the Kennett Square Borough Code, chapter 4, *Buildings and Plumbing* shall remain in full force and effect as previously enacted and amended.

Section 3. The terms hereof shall supersede the terms of all other ordinances or resolutions of the Borough that are inconsistent herewith.

Section 4. The provisions of this amendatory ordinance are severable. If any provision, section, sentence, clause, or part shall be held to be invalid, illegal, or unconstitutional by any court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of the amendatory ordinance. It is hereby declared to be the intent of the Borough that this amendatory ordinance would have been adopted as if such illegal, invalid, or unconstitutional provision, section, sentence, clause, or part had not been included herein.

Section 5. This amendatory ordinance shall take effect and be in force from and after its enactment. The enactment date of this amendatory ordinance is the date when the Mayor shall approve it, or the date of passage by the Borough Council over the veto of the Mayor. If the amendatory ordinance is not returned by the Mayor at the regular meeting of Borough Council, occurring at least ten days after the meeting at which such amendatory ordinance was passed by the Borough Council, the date of enactment shall be the date of such succeeding regular meeting of Borough Council.

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

The ordinance was assigned No. 911.

BID AWARD 2014 PAVING IN PLACE INNOVATIVE CONSTRUCTION SERVICES

President Spencer presented the bid award for the 2014 Paving in Place to Innovative Construction Services.

The Manager advised that the bid opening was held on July 16, 2014 with Innovative Construction Services being the low bidder with a bid amount of \$177,010.00. The following are the streets being repaired and/or paved:

- East Cypress Street from Walnut Street to the Municipal Line.
- West State Street from Garfield Street to Washington Street.
- West State Street from Washington Street to Mill Road.
- West Sickle Street from Union Street to Lawnfield Way.
- West Sickle Street from Lawnfield Way to Lincoln Street.
- Mill Road from State Street to Cypress Street.
- Filbert Alley from Magnolia Street to Cypress Street.
- West South Street from Union Street to Center Street.
- West South Street from Center Street to Lafayette Street.
- South Union Street from South Street to Ridge Avenue.
- Worrall Avenue from Wayne Avenue to Mill Road.
- Harvey Circle.
- South Walnut Street from State Street to Birch Street.
- Lafayette Street from Magnolia Street to Cypress Street.

It was moved by Councilmember Bosley and seconded by Councilmember Taylor to award the bid as presented. Motion carried unanimously.

PRESIDENT'S REPORT

President Spencer stated that there is a meeting tomorrow night at the Episcopal Church of the Advent, 401 North Union Street, to address concerns of homelessness in our area. A commission, mainly driven by local churches, was formed earlier this year to take the initiative to provide on a rotating basis overnight accommodations and meals for homeless families. The meeting begins at 7 p.m. and the public is welcomed to attend.

COUNCIL, MANAGER and MAYOR COMMENTS and ANNOUNCEMENTS

Councilmember Irwin thanked Mr. Drumheller for his research and work on these ordinances and commented that the public was well served.

Vice President Maffei reported that he attended his first Kennett Area Park Authority (KAPA) meeting as the Borough liaison.

ADJOURNMENT

It was moved by Councilmember Plumley and seconded by Vice President Maffei to adjourn the meeting at 8:45 p.m.

Karen L. Scherer

Karen L. Scherer
Secretary