

# OFFICIAL MINUTES

## MARCH 16, 2015

The Regular Meeting of March 16, 2015, of Council for the Borough of Kennett Square was called to order at 7:00 p.m. in the Monroe Nute Room of the Kennett Fire Company No. 1, 301 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*  
*Interim Borough Manager Joseph C. Scalise*  
*Solicitor Marc Jonas*

Absent: *Junior Council Person Meliton Gomez*

### EXECUTIVE SESSION

President Spencer announced that Council held an Executive Session on Monday, March 16, 2015, at 6:00 p.m. The meeting was held in the Monroe Nute Room of the Kennett Fire Company, 301 Dalmatian Street. The purpose of this meeting was to discuss legal matters and the possible acquisition of real estate.

### PUBLIC COMMENTS

John Thomas, 406 South Broad Street, shared his belief that most developers do not care about the Borough; they are only interested in making money. We should welcome developers to the Borough but at the same time stand up to developers and request that they give something back to the Borough to resolve issues that we already have with development such as parking, intersections, and the general flow of traffic that affects our residents and way of life.

Roy Anderson, 365 North Mill Road, complained about the trucks and loud noise at 310 - 320 North Mill Road. He noted that the truck traffic there is terrible plus they begin work as early 3:00 in the morning and continue until 10:00 or 11:00 in the evening. The noise from tractor trailers idling, along with the exhaust, is so bad that he cannot open his windows. He would like the Borough to talk to Kennett Township about these issues.

Matt Shook, 608 Meadow Creek Lane, questioned how the businesses hours are enforced for 310 - 320 North Mill Road. He advised that he has contacted the Police in the past regarding the early and late hours of operation. Mr. Shook also shared his concern about the type of chemicals at this property and questioned if they are properly

contained, have the proper MSDS sheets and if there is a safety plan in place in the event of an emergency.

Rick Avello, 200 North Mill Road, had the same concerns as his neighbors regarding 310 - 320 North Mill Road. He advised that he called Kennett Township and spoke with Diane Clayton this morning and was told that she was not aware of any complaints from the Borough or residents about this property. Mr. Avello noted that when he was on Borough Council, he received complaints on a weekly basis and notified the Borough. He asked Council to consider these complaints before making any type of decision regarding this property.

## **PUBLIC SAFETY**

### **POLICE DEPARTMENT**

On behalf of Chief Edward Zunino, Corporal William Holdsworth reported the following statistics for the month of February, 2015:

- Traffic Citations – 78.
- Written Traffic Warnings – 39
- Criminal Arrests – 20.
- DUI Arrests – 4.
- Total Calls – 534, compared to 552 in February, 2014.

### **FIRE COMPANY**

Fire Chief Steven Melton reported the following calls for the month of February, 2015:

- Total EMS Calls – 70.
- Fire Calls – 25.

Chief Melton advised that he cannot run for another term as Fire Chief and thanked Council for their support during his years of service.

### **PUBLIC SAFETY COMMITTEE UPDATE**

The Mayor advised that the minutes were not yet completed and he will defer his report until next month.

### **PUBLIC WORKS and FINANCE COMMITTEE**

Councilmember Bosley reported the following for the month of February, 2015:

- Invoices were reviewed and spot checked.
- The snow removal budget is in good shape.
- They discussed the details of the recent water main break on South Union Street.
- Cypress Street Project is ready for bid. The project should begin late April and be completed by the end of October.

- Due to the winter weather the Closed Loop Project was at a standstill but should finish on time with the extension that runs through June.
- Yeatman Well is functioning and putting out water but is not operating at the level that it should be. Work continues to address these operating issues.
- Other items that were discussed included a succession plan for Kathy Holliday in 2017, the Capital Improvement Plan, water and sewer transfers, revolving loan funds for public sidewalks, and ways to improve the Public Works/Finance Committee.

## **CONSENT ITEMS**

### **MINUTES of MARCH 2, 2015**

President Spencer presented minutes from March 2, 2015.

*It was moved by Vice President Maffei and seconded by Councilmember Sinclair to approve the minutes as presented. Motion carried unanimously.*

## **BILLS**

President Spencer presented the bills to be paid on March 16, 2015, and the bills 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.*

## **PROPOSED DEVELOPMENT**

### **310-320 NORTH MILL ROAD, KENNETT TOWNSHIP**

President Spencer advised that the property owner of 310-320 North Mill Road in Kennett Township is planning to construct a 7,020 foot structure on the site. In addition to the complaints expressed this evening, the Borough has received several complaints over the years regarding the noise and truck traffic at this location. It is Council's desire that the Borough be represented at the Kennett Township Zoning Hearing regarding this property. Council has appointed Joseph Scalise, Interim Manager, as the liaison and President Spencer invited the members of Council to attend as well.

The Interim Manager advised that the Zoning Hearing will be held on March 19<sup>th</sup>, at 7:30 p.m.

President Spencer questioned the chemicals stored at this facility.

Fire Chief Melton stated that the company has provided the Fire Company with their MSDS sheets. He noted that there are hazardous materials there but the Fire Company does not have jurisdiction to regulate what chemicals are stored there.

Councilmember Bosley recommended that we advise Kennett Township of the numerous complaints we have received from Borough residents and the content of these complaints.

Vice President Maffei stated that there must be other jurisdiction overlapping regarding this property such as water sheds, DEP and EPA.

The Interim Manager advised that the upcoming Zoning Hearing is for relief from something and the owner would still have to go through the development process.

President Spencer questioned if Kennett Township has a noise ordinance

The Solicitor stated that the Borough is taking some good initial steps and suggested that the Borough Engineer also be consulted. He advised that Right-to-Know Requests can be filed with Kennett Township to obtain information regarding this property.

Chief Melton stated that it is within his authority as Fire Chief to visit the property along with the incoming Fire Chief regarding safety issues.

Vice President Maffei said we should go on record as many times as possible and perhaps send copies of our responses regarding this property to Kennett Township's Manager, Planning Commission and Codes Enforcement Officer so that they have the same information.

The Interim Manager asked for clarification from Mr. Shook regarding the chemicals and if Mr. Shook had witnessed any environmental issues.

Mr. Shook replied no; he is concerned about the chemicals because he has seen them being delivered.

The Solicitor advised that the Borough has the right to weigh in on the Zoning Hearing in Kennett Township however we need to know what type of relief they are seeking. He recommended that the Borough's Interim Manager have a discussion with Kennett Township's Manager and determine where Kennett Township stands on this matter.

President Spencer recommended that Kennett Township be informed of the active and pertinent discussion at tonight's meeting created by this situation.

The Solicitor advised that there are six (6) variances being sought.

## **CENTER STREET PARKING – 100 BLOCK**

The Interim Manager presented the new plan he generated for the proposed parking changes in the vicinity of the 100 block of Center Street. The plan consists of 11 long term permit parking spaces on the north side of West State Street, from Maiden Lane to Meredith Street, all metered spaces on Center Street, and converts four (4) metered spaces on West Cypress Street to long term permit parking. The metered spaces on Center Street would consist of four (4) 15-minute metered spaces and 13 3-hour metered spaces.

Councilmember Taylor commented that the Interim Manager put together exactly what Council discussed at the last meeting.

The Interim Manager added that all of the metered spaces on the south side of West State Street between Center and Meredith Street would remain with a possible commercial

loading and unload zone to be utilized during certain times of the day. This would get trucks off of State Street.

Vice President Maffei asked if the plan takes into account the pedestrian walkway that is to be installed across West State Street.

The Interim Manager replied yes.

The Mayor noted that this takes care of what the Public Safety Committee has been discussing since the fall of 2014.

Councilmember Plumley agrees with the plan but would like to see the long term permit parking spaces be moved to the garage if the garage is expanded.

Council agreed to have the Interim Manager begin work on the proposed ordinance to implement these changes.

**RESOLUTION NO. 3-15  
GRANT APPLICATION to the  
GREEN REGION PROGRAM/PECO OPEN SPACE PROGRAM  
FITNESS STATIONS at HERB PENNOCK PARK WALKING TRAIL**

President Spencer presented the resolution supporting the submission of a grant application for \$10,000 to the Green Region Program/PECO Open Space Program.

The Interim Manager advised the grant application is for the Fitness Stations along the Herb Pennock Park Walking Trail. This is a pass through grant and the Borough is making the application on behalf of Kennett Area Park and Recreation Board (KAPRB).

**It was moved by Councilmember Sinclair and seconded by Councilmember Taylor to approve the resolution as presented. Motion carried unanimously.**

The resolution was assigned No. 3-15

**AUTHORIZE AUCTION of PATROL VEHICLE**

President Spencer presented the request from Chief of Police Edward Zunino to auction off the 2008 Dodge Charger.

The Interim Manager advised that this vehicle had received water damage in 2011. The engine was replaced but the vehicle continues to experience numerous electrical problems and now is basically unusable.

**It was moved by Vice President Maffei and seconded by Councilmember Sinclair to approve the auction as presented. Motion carried unanimously.**

## **CONSIDERATION of FREE TWO (2) HOUR PARKING INTERNATIONAL DAY of HAPPINESS, MARCH 20<sup>th</sup>**

President Spencer presented the request from the Community Happiness Committee to offer to the public two (2) free hours of parking in the Borough on International Day of Happiness on March 20<sup>th</sup>.

The Interim Manager advised that the Committee has offered to cover each parking meter with a bag with a smiley face. The free parking would be between the hours of 9:00 a.m. and 5:00 p.m. and the parking limitations would still be in effect. He added that the Committee would absorb all of the costs and would also remove the bags at the end of the event.

Sandra Borrer, a member of the Community Happiness Committee, gave a brief summary of idea of International Day of Happiness which was generated by the United Nations in 2012.

President Spencer understands the motivation behind the International Day of Happiness; it helps distract from the negativity we see on the news everyday due to all of the tragic and violent events happening all over the world.

John Thomas stated that is not against Happiness Day but wondered what it is going to cost the Borough. He suggested that the money collected from the parking meters that day be donated it to a food cupboard or shelter because he believes people will take advantage of the free parking.

**It was moved by Vice President Maffei and seconded by Councilmember Irwin to approve the request for two (2) free hours of parking in celebration of International Day of Happiness on March 20<sup>th</sup>.**

Councilmember Plumley expressed his concern that if we approve this event then other organization may come forward requesting the same and it will get out of hand.

Vice President Maffei stated that he agrees with Councilmember Plumley although he thinks this is a great event and concurs with comments from President Spencer.

Councilmember Bosley concurred with Councilmember Plumley and Vice President Maffei.

The Mayor would like to see a corporation sponsor an event like this with the monies collected being donated to a non-profit organization such as the food cupboard. He commented that we don't want to send a message that paying for parking creates unhappiness – it is part of being a good citizen.

A discussion ensued regarding free parking compared to sponsored parking.

Olen Grimes, owner of Art Works, stated that his store would donate two (2) hundred dollars to the food cupboard to help offset the cost of free parking on State Street.

President Spencer recommended that we do not offer the free parking this year due to the time restraints and too many uncertainties.

It was moved by Vice President Maffei and seconded by Councilmember Irwin to rescind the motion.

Vice President Maffei offered his assistance to Ms. Borrer in the planning of this event for next year.

## **WAIVER REQUEST**

### **430 ASSOCIATES and PAUL HUTCHINSON, II, 708 TERMINAL WAY**

President Spencer presented the waiver request from 430 Associates and Paul Hutchinson, II for 708 Terminal Way.

It was moved by Vice President Maffei and seconded by Councilmember Taylor to grant the following waiver request as read by the Solicitor:

*“Grant a waiver from section 24-20(e) of the stormwater management ordinance requiring the first one-half inch of runoff volume to be infiltrated subject to the conditions attached to the grant of the preliminary/final land development application approval.”*

Motion carried unanimously

## **PRELIMINARY/FINAL LAND DEVELOPMENT PLAN**

### **430 ASSOCIATES and PAUL HUTCHINSON, II, 708 TERMINAL WAY**

President Spencer presented the Preliminary/Final Land Development Plan for 430 Associates and Paul Hutchinson, II, 708 Terminal Way.

The Solicitor read the motion as follows:

*“Approve the preliminary/final land development application of 430 Associates and Paul Hutchinson II, based on the plans prepared by Commonwealth Engineers, Inc., dated September 26, 2014, last revised March 3, 2015, with sheet 3 being last revised on March 9, 2015 and consisting of 6 sheets, for the property located at 708 Terminal Way, subject to the following conditions, each of which shall be satisfied prior to the signing and recording of the preliminary/final plans unless otherwise stated herein:*

- 1. Compliance with all comments contained in Pennoni Second Review dated December 26, 2014, and Pennoni Third Review dated March 10, 2015.*
- 2. Submission of .pdf files of all drawings for each plan set to Kennett Square Borough and Pennoni (section 18-10(e)(3)).*
- 3. Execution of all certificates required by Kennett Square Borough (section 18-10(f)).*
- 4. Receipt of all permits and approvals necessary for the completion of the project.*

5. *Payment of all Kennett Square Borough legal and consultant review fees prior to signing and recording of the preliminary/final Plans.*
6. *Payment of \$1,500.00 to be placed in escrow with the Borough for a 3 year period for future sidewalk installation.*
7. *Execution of a Stormwater Operations and Maintenance Agreement, which shall provide, inter alia, for the perpetual maintenance obligation of the applicants and successor owners to ensure maintenance of all stormwater facilities, in a form prepared by and acceptable to the Kennett Square Borough Solicitor.*
8. *Execution of a Land Development and Financial Security Agreement with Kennett Square Borough as required by the Pennsylvania Municipalities Planning Code guaranteeing the completion of all public improvements, in a form prepared by and acceptable to the Kennett Square Borough Solicitor.*
9. *Posting of financial security, in accordance with section 509(a) of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10509(a), in an amount to be determined satisfactory by the Borough Engineer and in a form acceptable to the Borough Solicitor, to ensure completion of the proposed improvements.*

*The following waivers from the Kennett Square Borough Subdivision and Land Development Ordinance were previously granted by Kennett Square Borough Council on November 23, 2014:*

- A. *A waiver from section 18-8(a) requiring a tentative sketch plan to allow the informal plan submitted to Borough Council on September 10, 2014, to be considered the sketch plan.*
- B. *A waiver from section 18-8(b) requiring separate preliminary and final plan submissions. The plans are submitted as preliminary/final plans.*
- C. *A deferral of compliance with section 18-21(a)(1) which requires that sidewalks be constructed along all streets. Compliance with this requirement is deferred for a period of 3 years from the date of final plan approval. Applicants shall escrow the amount of \$1,500.00 to be held by the Borough for sidewalk construction. If applicants do not construct the sidewalks by the end of the 3 year period, the Borough may withdraw the amount in escrow for the construction of the sidewalk.”*

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

## **WAIVER REQUESTS**

### **221 SOUTH UNION STREET, ROBERT and DEBRA NORRIS**

President Spencer presented the waiver requests for 221 South Union Street, Robert and Debra Norris.

James Fritsch, Register Associates, represented Mr. and Mrs. Norris and gave a brief summary of the history of the property and the reasons for the requests.

It was moved by Councilmember Irwin and seconded by Councilmember Sinclair to grant the following waivers from the Borough's Stormwater Management Ordinance:

- 1. from section 24-6(d) and Appendix A.4 "Introduction" requiring the proposed earth disturbance to be less than 1,000 square feet to utilize the simplified method approach to stormwater management for small projects. The proposed disturbance is 3,804 square feet, but the scope of work is limited, and the majority of the disturbance is temporary; and*
- 2. from Appendix A.4 "Step 1" requiring that the location of all existing structures including buildings, driveways, and roads within 50' of the project site be shown on the plan. The additions are to be constructed in the central area of the property, not in close proximity to the side lot, and the majority of the disturbance is temporary.*

*The grant of waivers is conditioned upon compliance with outstanding and unresolved comments of the Borough engineer, per the Stormwater Review #2 letter dated March 11, 2015 from Pennoni Associates, Inc. to the Borough Code Enforcement Officer.*

Vice President Maffei stated that he would reclude himself from discussion and voting on this item due to his business relationship with Robert Norris.

The motion carried with a vote of 6 to 0 with Vice President Maffei abstaining.

## **WAIVER REQUEST of PARKING REQUIREMENTS**

### **116 SOUTH UNION STREET, OLEM GRIMES, BLISS YOGA**

President Spencer presented the letter from Olen Grimes, owner of 116 South Union Street, requesting relief of five (5) required parking spaces.

The Interim Manager advised the new business requires seven (7) parking spaces. The property owner already has two (2) parking spaces so they are requesting relief for five (5) spaces.

It was moved by Councilmember Bosley and seconded by Councilmember Taylor to approve the relief for five (5) parking spaces as requested.

Vice President Maffei stated that our Municipal Code requires a one-time In-lieu of Parking Requirement Fee of \$460 per space and questioned if the applicant will be paying that fee.

The Interim Manager replied yes; the applicant will be paying the \$460 fee per space.

**Motion carried unanimously.**

## **WAIVER REQUEST of PARKING REQUIREMENTS 110 SOUTH UNION STREET, JOSEPH NAPOLITANO, DAY SPA**

President Spencer presented the letter from Joseph Napolitano, requesting parking relief for six (6) spaces for a day spa at 110 South Union Street.

The Interim Manager advised the applicant requires eight (8) spaces. The building already has relief for two (2) spaces so the applicant is requesting relief for six additional (6) spaces.

The applicant is required to pay a one-time In-lieu of Parking Requirement Fee of \$460 per space.

**It was moved by Vice President Maffei and seconded by Councilmember Taylor to approve the relief for parking as requested. Motion carried unanimously.**

## **COMMONWEALTH FINANCING AUTHORITY (CFA) GRANT SOUTH STREET**

The Interim Manager advised that last year we requested approximately \$127,000 from the CFA to replace the water main on West South Street from Kaolin Mushroom Farms to the Wastewater Treatment Plant. Our match was approximately \$20,000. We were awarded the grant but only funded \$60,000 which left a \$70,000 shortfall. Since then we have decided to shift our focus towards a project that will eliminate the issues associated with the water main break back in September 2014 and leave a smaller funding gap. With Council's permission, the project would consist of eliminating two (2) of the three (3) water mains on East South Street, the installation of approximately eight (8) new main valves and tie in all the services and hydrant to the 12 inch water main. The OPC estimates the total cost for the project to be \$103,000 which would require us to add approximately \$23,000 to our initial \$20,000 match. The Interim Manager noted that he does know if the CFA will allow us to change the project however he must have Council's approval before he presents the project change request to the CFA.

**It was moved by Councilmember Taylor and seconded by Councilmember Bosley for the Interim Manager to present the request to change the project to the CFA as presented.**

Councilmember Plumley questioned where the Borough's additional \$23,000 would come from.

The Interim Manager advised that he discussed this with Kathy Holliday, the Finance Director. The additional monies would most likely be funded by the tapping fees we have been collecting.

**Motion carried unanimously.**

## **PRESIDENT'S REPORT**

On behalf of Junior Council Person Gomez, President Spencer announced that the Carter Community Development Corporation will hold a meeting on Saturday, April 11<sup>th</sup>, at the Bethel A.M.E. on East Linden Street. The purpose of this meeting is to discuss parking and cleanup.

President Spencer advised that Boy Scout Troop 53 has a drop box just outside of this building for flags that are tattered and torn and need to be disposed of during the Troop's Flag Retirement Ceremony.

President Spencer announced the following events:

- Annual Spring Clean Up is scheduled for April 18<sup>th</sup>, 9:00 a.m. to 3:00 p.m.
- The Kennett Public Library is coordinating the Free Shred Event for the same day as the Clean Up from 9:30 to 11:30 a.m. in the municipal parking lot between the Library and Borough Hall.
- The Kennett Public Library will be hosting the Home and Garden Tour on June 6<sup>th</sup>.

President Spencer stated that there has been a lot of discussion about the possibility of regional policing. This Saturday there will be a meeting for elected officials only; the public will be invited to participate in discussions at a later date.

President Spencer referred to a recent article in the Chester County Press that ridiculed Council and noted that some of the items in the article were definitely not accurate. He stated that we have a vibrant town and people readily come to our community. We are in pretty good shape economically but the article suggested otherwise and that people are being driven from our town. He encouraged the public to take a look around on any given night in this town to see just how vibrant we are.

President Spencer also referred to the talk around town regarding the recent changes with the Library. He noted that Council respects any agency and anything that they think that have to do; we may not agree with them but we respect the right of those agencies to make decisions.

Referring to article in the Chester County Press again, President Spencer reported that the article was inaccurate when it stated that there is a lack space for the Library to expand in the Borough. At one point there were four (4) agencies, the Borough, Anson B. Nixon Park, YMCA and Bayard Taylor Memorial were part of an organization known as the Kennett Area Community Development. The intent of this organization was for these agencies to come up with a development plan for the betterment of the Borough with the assistance of grant funding. As that process transpired, the YMCA bowed out of the organization and began their expansion on their own. However, the Borough and the Library continued discussion to expand the Library at their current location or relocate to the Borough-owned property know as the Weinstein lot. The opportunity for the Library to remain in the Borough was there however they chose to relocate outside of the Borough. President Spencer advised that his comments are not meant to throw darts at the Library but to make sure the public understands the truth and inform you that the editorial was in error in its comments.

President Spencer announced that Kennett Square was mentioned in an article in the March 2015 edition of the Redbook magazine. The article was titled **Philadelphia and Kennett Square, Pennsylvania** - *“Heading to Philly? Before you set foot in the city of brotherly love, we suggest you visit Kennett Square, a perfectly preserved an American town only an hour away.....”*

President Spencer announced that Representative Stephen Barrar will host a public “Coffee and Donuts” event on Monday, March 23<sup>rd</sup>, 6:30 p.m. in the Red Clay Room to discuss State issues.

## **COUNCIL, MANAGER and MAYOR COMMENTS and ANNOUNCEMENTS**

There were no comments or announcements.

## **ADJOURNMENT**

It was moved by Councilmember Plumley and seconded by Councilmember Bosley to adjourn the meeting at 8:31 p.m.

*Karen L. Scherer*

Karen L. Scherer  
Secretary

