

OFFICIAL MINUTES MAY 18, 2015

The Regular Meeting of May 18, 2015, 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
Borough Manager Joseph C. Scalise
Solicitor Julie Von Spreckelsen

Absent: *Mayor Matthew W. Fetick*
Junior Council Person Meliton Gomez

EXECUTIVE SESSION

President Spencer announced that Council will hold an Executive Session immediately following tonight's Council meeting, Monday, May 18, 2015. The meeting will be held in the Bayard Taylor Room of the Kennett Fire Company No. 1, 423 Dalmatian Street. The purpose of this meeting is to discuss legal matters.

PUBLIC COMMENTS

John Thomas, 406 South Broad Street, congratulated Joseph Scalise for being appointed Borough Manager. Mr. Thomas urged Council to hire former member of council William Carozzo as the Director of Public Works. Mr. Carozzo has 30 to 40 years of experience in this field and he knows everything about our systems.

Without entering into a Q and A period, President Spencer asked the Manager to reply to Mr. Thomas' comments.

The Manager advised that he had recently spoken to Mr. Carozzo. Mr. Carozzo stated that he is not interested in the Director of Public Works position; he is only interested in the position of Streets Department Foreman should that become available.

PUBLIC SAFETY**POLICE DEPARTMENT**

On behalf of Chief Edward Zunino, Corporal Christopher Wills reported the following statistics for the month of April, 2015:

- Traffic Citations – 73.
- Criminal Arrests – 28.
- DUI Arrests – 2.
- Total Calls – 649, compared to 585 in April, 2014.

FIRE COMPANY

Deputy Chief Mark Plumley reported the following calls for the month of April, 2015:

- Fire –30; 123 YTD.
- EMS1 – 76; 313 YTD.

He advised that the committee that is working on the research to purchase the new fire truck is currently working with three (3) separate manufacturers with the intent to place an order within a month or two (2).

PUBLIC SAFETY COMMITTEE UPDATE

No report due to the Mayor's absence.

PUBLIC WORKS and FINANCE COMMITTEE

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

- Invoices were reviewed and spot checked.
- The West Cypress Street Project is ready to go out for rebid.
- The Spring Clean-up went very well this year but the committee is looking at ways to improve this annual event in the future such as the collection of electronics.
- The committee is also looking into to possible energy programs.
- Mary Hutchins and David Myers of Historic Kennett Square (HKS) were present to brief the committee on the economic activity in the Borough and the increasing role of HKS. The committee will meet with HKS again after their retreat.

CONSENT ITEMS**MINUTES of APRIL 6, 2015**

President Spencer presented the minutes from April 6, 2015.

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

BILLS

President Spencer presented the bills to be paid on May 18, 2015.

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

PUBLIC MEETING

CHAPTER 25, HISTORIC DISTRICT ORDINANCE

HISTORIC ARCHITECTURAL REVIEW BOARD (HARB)

The Solicitor gave a brief summary of the proposed ordinance amending the Kennett Square Borough Code, repealing Chapter 2, Administration, Article VI, Historical Commission in its entirety; and adding a new Chapter 25, Historic District.

President Spencer asked the Solicitor why the protection of historic properties is important.

The Solicitor replied that the protection keeps a neighborhood as a desirable place to live; it also promotes economic development, increases property resale value, and allows for adapted reuse of properties.

President Spencer referred to Article VII, Unreasonable Economic Hardship, stating that residents have expressed their concerns to him regarding the requirement to share personal financial information as stated under Section (a)(6),

The Solicitor replied that this section pertains to an applicant that is claiming financial hardship and provides the means for a way that the applicant can prove this claim. The Solicitor noted that under Section (a) the HARB may deem it unnecessary for the applicant to provide certain documentation.

Vice President Maffei added that financial records and other documents are not necessary during the normal process but would only be required if the applicant is claiming economic hardship and unable to comply with the ordinance.

President Spencer added that there are certain things that are confidential and need to remain confidential including a person's income. He recognizes that this requirement of financial information can be circumvented by the HARB but he needed to convey the concerns he has received from residents.

President Spencer asked the Solicitor to touch on the Borough's Certified Local Government (CLG) status.

The Solicitor advised that the Borough actually lost their CLG status because the current historic district is not certified by the Pennsylvania Historical and Museum Commission (PHMC). With the adoption of this ordinance, the Borough will regain their CLG status and be eligible for grant funding.

The Solicitor advised that if Council enacts this ordinance tonight, the ordinance still will not become active until it is approved by the PHMC.

President Spencer noted that one of the advantages of this proposed ordinance is the merging of two (2) boards/commissions; it is a fact that we have difficulty at times filling vacancies on the Borough's boards and commissions.

The Solicitor advised that the Borough is in violation of State law by having two (2) separate boards/commissions, the Historical Commission and the Architectural Review Board; State law mandates that there is only one (1), a HARB.

President Spencer questioned if we have addressed the issue of one of the members being a Real Estate Broker or a Realtor.

The Solicitor replied that the ordinance mirrors the State Statute which requires one (1) of the members to be a Licensed Real Estate Broker.

Councilmember Bosley said that there are a number of historical buildings in the Borough that need to be protected and we need some type of historical preservation. His first concern is if an applicant goes through the land development approval process and then starts the HARB process and an issue arises. Another concern is that if someone goes to sell their house and something as simple as the Codes Department requiring the installation of a handrail, the owner will then have to go through the HARB process. This may take some time which will then prolong settlement.

Councilmember Bosley stated that the ordinance implies that Council has the final sign off and that the HARB is only an advisory board but he does not see this specifically addressed in the ordinance.

Councilmember Bosley stated that the buildings in the zones are not classified differently. It concerns him that the school's snack shed, that was built just five (5) years, would have to go through the same process as the High School. The High School is a building that needs to be protected but the shed is not a significant structure as the High School.

In response to Councilmember Bosley's concerns, the Solicitor stated that Section 25-10(a) and (h) states that HARB is only a recommending body and that only Council can give final approval. Section 25-3(e) contains a list of exempted activity that do not require HARB approval. Section 25-3(h) states that nothing in this chapter shall be construed to prevent the Routine Maintenance or minor repair, etc. which Borough Council shall certify as required for public health, safety, or general welfare.

Councilmember Bosley stated that he would like to see handrails listed in Section 25-3(e).

The Solicitor replied that adding the word "handrails" would be at the pleasure of Council.

The Solicitor advised that there is a pre-application review process that can speed things along. She stated that most developers go through the HARB process simultaneously with their land development process.

Councilmember Sinclair advised that this ordinance requires that each member attends eight (8) hours of training each year in either historical preservation or HARB procedures.

Councilmember Plumley stated that we keep bringing this up and modifying it and it is apparent that people do not like it. He is still in favor of disbanding the entire ordinance. From a personal level, he recently had an appraisal done which did not include any historic elements.

President Spencer stated that when this ordinance initially came up it appeared that the only way we would continue to receive any grant funding was to adopt this ordinance. He noted that this is not the case; however, the only way to receive Historic Preservation Grants is to adopt this ordinance.

The Solicitor advised President Spencer that his statement was correct.

Councilmember Plumley stated that he was told by the previous Borough Manager Brant Kucera that we only received one (1) grant by having the CLG status which was to write this proposed HARB ordinance.

President Spencer questioned what types of grants we might acquire as a result of adopting this ordinance.

Vice President Maffei replied that the creation of our current Historic District was part of the National Mainstreet Program which was provided by grant funding.

Mary Hutchins, Historic Kennett Square, stated that they are closing out their recent \$80,000 Façade Grant which was awarded through the Mainstreet Program.

Vice President Maffei stated that this speaks directly to our preservation efforts of our zoning as it currently exists. In the past, Council has chosen to protect our historic resources and we became eligible for these monies. We have our downtown district and various residential districts that have a particular quality and appearance and that is because of historic preservation.

President Spencer said that there is a lot of interest in our community and Council needs to decide whether or not enacting this ordinance will enhance or impede our growth.

Vice President Maffei reviewed the items that are exempt from the HARB application process. He noted that we may lose some historic ground by allowing someone to replace a slate roof with an asphalt shingle roof; however, the building in its current shape and form would still be there and a new owner may choose to install a slate roof in the future.

The Solicitor opened the Public Meeting at 7:47 p.m.

John Thomas, 406 South Broad Street and a member of the ARB, stated that he had attended one meeting regarding the HARB and disputed a lot of the things that were discussed. He feels that the writing of this ordinance was done behind closed doors and he is not in favor of the ordinance. Mr. Thomas does not want the Borough to have control over what he wants to do to his home. He loves history and historic homes and trusts that people will continue to maintain their historic homes well.

Myra Miller, 301 Scarlett Avenue, Chair of the ARB, stated that she was not invited to help write this ordinance. She noted that we need to protect the historic buildings in town but she is not happy with the way this new ordinance was written.

Jennifer Duffy, 216 Center Street, stated that we are thriving and we do not need this ordinance. She does not like that fact that the court is the last resource to appeal a decision and is against the requirement of providing personal financial information. She believes the ordinance will deter people looking to purchase an older home. Ms. Duffy is not in favor of the ordinance and asked Council to vote against it and not bring it back.

Renna Van Oot, Executive Administrator of the Friends Home, 147 West State Street, read aloud the same comments that she shared with Council a year ago. The Friends Home has been taking care of older residents since 1898 and needs to make significant changes to their facility to keep their residents safe. She hopes that the Borough will work with them during this process.

Ken Edwards, 412 Meredith Street, stated that this is the first he has heard of this ordinance and asked what encompasses the Historic District in the Borough. He added that if buildings are on the Federal Historic Record then the ordinance must follow the Federal regulations.

Councilmember Sinclair advised that Kennett Square Historic District is listed in the National Register of Historic Places.

Prissy Roberts, 233 North Union Street, stated that she has been a resident of the Borough for about 50 years and commented that people are coming here for the charm. She noted that she was aware of the meetings and attended when she was able and supports this ordinance. Ms. Roberts said that we are on an upswing and don't want to be known as "Any Town Kennett Square"; we want to be "Historic Kennett Square".

Ms. Hillary Holland, 111 Magnolia Street said that we are all the stewards of Kennett Square. One item that she does not like about the HARB ordinance is the requirement to provide her financial information. Ms. Holland added that Kennett Square is booming the way it is and we don't need the HARB to keep the upswing going.

Ann Einstein, 119 East Linden Street, stated that from a business owner perspective, she is rather horrified of all the things she'll have to go through to place a sign on her property. Everything in the ordinance is totally subjective and is extremely unclear. When someone will have to go through the renovation process, she thinks it will be overwhelming for the applicant. Ms. Einstein stated that she is not in favor of the ordinance.

Carol Krawczyk, 521 West State Street and a member of the Planning Commission since 1997, advised that she has been involved in generating two (2) of the Borough's Comprehensive Plans which included historic preservation. She said that the Borough lost a house that was on the Underground Railroad due to a fire and lost a couple of houses on West State Street for a parking lot. Ms. Krawczyk noted that Councilmember Sinclair purchased a house on Meredith Street that was scheduled for demolition. We have lost homes in this community because we don't have "teeth" in our current Historic Ordinance. If we don't protect what we already have then we will lose more historic buildings. She noted that the people in this room tonight that have older homes will continue to preserve them but down the road, that may not remain the same. Ms. Krawczyk said we need an ordinance that has merit and applauds this ordinance.

Mike Moyer, 302 West State Street, asked for some clarification. He stated that half of his property is grass and he would like to build something similar to a pergola for his tenants to enjoy the property. He asked if he would have to go through the HARB process.

Vice President Maffei stated that if you are looking to construct an addition to the existing building, then you will have to go through the HARB and Building Permit process.

Councilmember Sinclair advised that if the pergola is not attached and can be moved, then you do not have to go through the process.

Mr. Moyer asked if the HARB did not approve an application, would he then have to appeal to Council.

Vice President Maffei replied that the final decision stands with Council.

Mr. Moyer asked if the HARB process involves a fee.

The Solicitor advised that the ordinance allows for a fee but the fee would have to be adopted through a resolution.

Mr. Moyer asked if there is a fee to appeal the HARB decision to Council.

The Solicitor replied no. Council has the final decision and the HARB is strictly an advisory board.

Mr. Moyer said that he is all for keeping the Borough growing but wants us to be careful; his sister bought a historic home 25 years ago in Portsmouth, Virginia and now the home is worth less than what she paid for it.

John Thomas, 406 South Broad, we will not stay cute little Historic Kennett Square s if we keep allowing the construction of high rise buildings in the Borough. We just can't be building upwards; besides preserving the stores in our downtown, we need to expand our downtown from the YMCA to Mill Road.

President Spencer stated that this is probably the toughest decision this Council has had to make. He has a great appreciation for the preservation of history in our community but there are a few things that have to enter into the picture. President Spencer does not want anyone having access to his private finance information. We need to be more defined and provide sample of historic lettering and historic color swatches. He agrees with the concept of the ordinance as long as having the HARB will not impede us from growing and does not create hardships for our citizens.

Vice President Maffei reviewed the procedure that was taken to generate the latest version of this ordinance. He advised that it was not done behind closed doors and everyone from both commissions, in addition to the general public, were welcomed to attend the meetings. It is true that Kennett Square is booming without this particular historic preservation ordinance being in place; however, the positive economic impact is happening under our current preservation ordinance which is more stringent than what is being proposed this evening.

President Spencer closed the public meeting at 8:35 p.m.

ORDINANCE NO. 917

CHAPTER 25, HISTORIC DISTRICT ORDINANCE and MAP

HISTORIC ARCHITECTURAL 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 25, Historic District.

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

The Secretary called the roll of votes with Councilmember Sinclair, President Spencer, Vice President Maffei and Councilmember Irwin voting yes, and Councilmembers Taylor, Plumley and Bosley voting no.

Motion carried with a vote of 4 to 3.

The ordinance was assigned No. 917

ARCHITECTURAL REVIEW BOARD (ARB) APPLICATION 110 SOUTH UNION STREET

President Spencer presented the ARB application from Franco and Mary Mastrangelo for new signage, exterior painting and brass lanterns for Houppette, a new business located at 101 West State Street.

It was moved by Councilmember Sinclair and Councilmember Bosley to approve the application as presented. Motion carried unanimously.

PRESIDENT'S REPORT

President Spencer reported that the Kennett Run was another success this year with over 1,200 runners registered prior to the race and an additional 200 to 300 that registered that day. He thanked the Public Works and Police Departments for the assistance with the event.

President Spencer noted that this time of year we see more activity with kids playing outside. He urged the public to please be careful and be aware of children that may be playing in the street. President Spencer would like to see a program developed consisting of parents working together to supervise the children. He has seen children playing without parental supervision and even witnessed them in the street.

President Spencer announced that the Kennett Middle School, 195 Sunny Dell Road, Landenberg, received recognition for academics. They were designated as one of the Don Eichhorn "Schools to Watch". He congratulated them on this achievement.

COUNCIL, MANAGER and MAYOR COMMENTS and ANNOUNCEMENTS

There were no comments or announcements.

ADJOURNMENT

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



Karen L. Scherer
Secretary

EXECUTIVE SESSION

Council convened into Executive Session.