



Board of Supervisors Minutes

May 19, 2021 | 7:02 | Remote Meeting Via Zoom

Present: Dr. Richard L. Leff, Chairman; Scudder G. Stevens, Supervisor; Eden R. Ratliff, Township Manager; Amy Heinrich, Finance & HR Director; Diane Hicks, Planning & Zoning Director; Roger Lysle, Public Works Director; Matt Gordon, Chief of Police; Dave Sander, Solicitor

Absent: Whitney S. Hoffman, Vice Chair

1. Call to Order

Chair Richard Leff called the meeting to order at 7:00 p.m., explained how this virtual meeting would be conducted, and offered a COVID-19 update noting that it will take some time for everyone to get vaccines so in the meantime, continue practicing appropriate precautions while around people not from your household. Leff also explained that Whitney Hoffman would not be able to attend tonight's meeting as she was out of town on family business.

2. Township Recovery Update

Manager Ratliff had no update to report.

3. Executive Session Announcements

There were no Executive Sessions to announce.

4. Meeting Minutes

a. May 5, 2021

(www.kennett.pa.us/DocumentCenter/View/4755)

Motion presented by Stevens to adopt the May 5, 2021 Board of Supervisors Meeting minutes. Seconded by Leff. Motion passed 2-0, with one absent.

5. Open Space Hearing

- Consider Resolution 2021-12:** www.kennett.pa.us/DocumentCenter/View/4767
- Consider Barkingfield Easement:** <https://www.kennett.pa.us/DocumentCenter/View/4768>
- Consider Lord Howe Easement:** <https://www.kennett.pa.us/DocumentCenter/View/4769>
- Consider Spar Hill Easement:** <https://www.kennett.pa.us/DocumentCenter/View/4770>

Ratliff outlined the upcoming resolution and conservation easements on three Township owned properties (Lord Howe, Spar Hill and Barkingfield Park) for the Board to consider. The easements would be held by the Township designating an open space interest and conservation protection on the three properties. He further explained that in accordance with the Open Space Land and Preservation Act (the Act), a public hearing must be held so the Board could hear comments from the public on a conservation easement being placed on the properties. Before the public hearing could begin, a resolution must be considered and passed which outlines the benefits of the easements for these three properties in accordance with the Act.

Discussion

- Stevens explained that he had a conflict with certain language in the upcoming easements, which are referenced to in the resolution. He said he did not want to address the resolution until the language of the three individual easements was clarified. Otherwise, he said, one incorporates the other and there would be no way to raise his questions. Ratliff said he believed they could discuss the easements first before the public hearing as that is to allow for public input but deferred to counsel. Solicitor Sander suggested adopting the resolution without reference to the three conservation easements, and then acting on each of the easements once the public hearing was opened. He explained the purpose of this resolution is to designate these three properties as containing open space benefits and making sure that we are meeting the letter the Act, which he read a portion of. Stevens referred to paragraph three of the resolution and said that while he would be happy to go along with what Sander suggested, he feels the resolution would need to be adjusted. Sander agreed and explained what he felt the motion should be. Discussion continued around what would be removed from the resolution.

Motion presented by Stevens to adopt Resolution 2021-12 conditioned on removing reference to the incorporation of the conservation easements. Leff seconded the motion. After the following discussion, Stevens withdrew the motion and Leff seconded the withdraw. There was no motion on the table.

- Joe Duffy (2 Black Rock Road) asked what these curative easements were curing. Sander explained that several years ago, when these properties were acquired by Kennett Township, the minutes are not clear as to whether the required public hearing under the Act was held in each of those three cases. He said this is a housekeeping issue to ensure the public hearing is on the record.
- Duffy asked about why the grantee and the grantor were both Kennett Township. Sander explained that is common during these types of declarations. Stevens added that one of the issues he had with the Spar Hill easement has to do with this same question.
- Ratliff asked, for clarity, if the section that was being removed from the resolution could be read aloud. Sander read section three (below) and said if that is removed along with the attachment of the easements, he thinks that would limit the resolution to designating the three properties as open space benefits.

The open space property interests to be acquired, and the proposed open space benefits are set forth in the proposed Conservation Easements attached hereto and incorporated herein by reference (the "Conservation Easements"). The real property set forth in Section 2 above has been designated for open space uses in a resource, recreation, or land use plan as required by the Open Space Act. The Board of Supervisors designates the open space property interests to be acquired as those set forth in said Conservation Easements.
- Stevens suggested that only the first sentence of what was read should be removed and Sander agreed. Sander added that because that would remove the referred term, "Conservation Easements," the resolution would have to be further tweaked.
- Ratliff commented that he gets nervous when discussing significant changes to what may become legal document in the middle of a meeting. He asked if there was value in postponing a decision on this until the June 2nd meeting given the significant proposed language changes.
- Stevens said he would go along with that but asked if they could still discuss the three easements now to make forward progress and finish the resolution at the next meeting. Sander said that anything can be discussed, but according to the Act, they would not be able to acquire the interests (the conservation easements) until a public hearing is held. Step one is adopting the resolution that designates the three properties for open space benefits. Until that happens, no public hearing can be opened and no motions on the conservation easements can be made.
- Sander reminded everyone of the current motion on the table. Stevens withdrew that motion and Sanders said the resolution would be updated as discussed and brought to the next Board of Supervisors meeting.
- Stevens commented that if the language in the easements can be discussed and addressed now, there is still a chance the original motion for the resolution can move forward, and then therefore, the public hearing. Sander agreed that was an option.
- Ratliff suggested a detour in the agenda to allow for discussion of the three easements.
- Stevens stated his issue with the holder of the easement being the same as the owner, as there is no one to enforce issues. He referenced a recommendation by the LCAC to incorporate an easement with TLC so they could be the third-party to provide the protective oversight. This would make Spar Hill equal to Baringfield and Lord Howe who both already have an easement by TLC on it. Ratliff agreed with Stevens and said that conversation with TLC has been underway. He then explained that it would not be a quick process, whereas curing Spar Hill now would be a simple process. This curing process is necessary so that funds from the Open Space Fund can be used

for these properties. He said there is nothing that stops the Township from adding an easement by TLC. Stephens asked, then, if this would be addressed in the near future. Ratliff said yes it would be addressed, but not necessarily concluded in the next two to four weeks, but it may take months. Stevens stated that this is a crucial point for how we move forward and without it, he would have to rethink where he is on this topic.

- Stevens then pointed out how the easements for Barkingfield and Lord Howe both had language that referred to “passive recreation” in them. He requested the same language be added to the Spar Hill easement, specifically on the second “whereas” that reads, “. . .and conserving lands for recreation (the “Conservation Objective”)”. He proposed adding “passive” in front of “recreation.” Ratliff said that this language mirrored the current deed restriction on the property. He explained that the other two properties list “passive recreation” to mirror the language of the preexisting conservation easements held by TLC. Sander confirmed Ratliff’s comments and said that if the Board chooses to add “passive” into the new conservation easement on Spar Hill, they may do so. Stevens then shared his view of the importance of having a third party manage these easements.
- Leff asked Stevens why he wanted to add “passive,” what “active” use he would be worried about. Stevens said he wants to keep the land as natural as possible and adding fields or pools would make it unnatural. Ratliff suggested that this be discussed when considering adding a conservation easement to Spar Hill by a third party, again pointing out that this is meant to simply mirror the current deed restriction and not add any additional restrictions. Stevens outlined some history of this process and wants to add “passive” now for future protection.
- Leff said the reason to put this current proposed easement on the property is to mobilize open space funds to be used on the property and said the future uses for Spar Hill are not yet ironed out, so he questioned why Stevens would want to limit the Township in the future. Stevens said once it is changed, it cannot be undone, so this level of protection is necessary now. He also said plans could fall through with TLC for a future easement and that would leave this property unprotected. Discussion continued about if easements can be added or removed in the future between the Supervisors and Sander.
- It was decided to remove these items from the agenda and the Township would work offline before the next meeting to make proposed changes.
- Heinrich asked if it was possible to get feedback from the public on what forms of recreation they would prefer at Spar Hill before potentially prohibiting them. She noted that this would be the third property owned by the Township that would only allow for passive recreation and given the amount of money spent on these properties, she cautioned restricting them before knowing what the community wanted.
- Duffy commented that there were other properties available in the Township where active recreation could be pursued and proceeded to list all the challenges he saw with active recreation/sports. He asked if there has been a request for things like soccer fields. Heinrich said she was simply giving an example, said the Open Space Fund can pay for active recreation, and said that she feels that while there is no plan now, she cautioned against limiting the space to only passive before those desires are asked of the community. Stevens said the view of the Board up to this point has always been on passive recreation.
- Beth Thomas (126 W Hillendale Rd) stated via Zoom chat, “We have all this open space but we really don't have any area to consider other use. We are not looking at possibly putting in tennis courts, basketball courts, and skate board park which has been asked for by a young man. Where is the conversation for these uses?”
- Linda Dillow (12 Deer Park Ln) asked via Zoom chat, “If the BOS can add restrictions to the easement at some future date, can the BOS remove restrictions at a future date?” Sander said that it was possible with an amended easement if the majority of the Board desired. Once a third party takes ownership of the easement, their approval would also be required.
- Abbie Kessler (The Land Conservancy for Southern Chester County (TLC)) explained how the easement of Barkingfield was done in conjunction with the subdivision of that parcel of land. As such, the original easement had to reference the original parcel number of the original property. She recommended updating both the resolution and the easement to reflect the new parcel number that is now specific to Barkingfield. Sander requested Kessler send her that specific information to make those edits and she agreed.

6. Old Business

There was no old business.

7. New Business

a. Consider May 19th Bill Voucher

www.kennett.pa.us/DocumentCenter/View/4756

Motion presented by Stevens to approve the May 19th Bill Voucher in the amount of \$109,536.87 and to approve transfers in the amount of \$2,517.39. Leff seconded. Motion passed 2-0 with one absent. There was no discussion.

b. Consider Muncibid Government Auction Bid for Police Vehicle

(www.kennett.pa.us/DocumentCenter/View/4757)

Ratliff reminded the Board of a prior meeting where they authorized the Township to put a police vehicle, the 2015 Ford Taurus Interceptor, on Muncibid to action it off. This agenda item is the result of that auction and they are now is seeking approval to sell the vehicle.

Motion presented by Stevens to authorize the sale of the 2015 Ford Taurus Interceptor for \$7,700 through the Muncibid online Government Auction. Leff Seconded. Motion passed 2-0 with one absent.

Discussion

- Leff said that it seemed to be a good price for a vehicle of that age with its past use.
- Chief Gordon agreed, stating that he did not expect a bid this high.

c. Consider McMahon Proposal for Flats Trail Connection

(www.kennett.pa.us/DocumentCenter/View/4758)

Ratliff recalled a prior meeting where a discussion led by Stevens ensued about a lack of trail from the Flats apartment complex on Millers Hill to Anson B. Nixon Park. This proposal from McMahon Associates is to do an analysis of the engineering work by High Associates. There was a productive meeting with them last week that looked at a couple opportunities as well as the obvious challenges of each, so he could see why the developer wanted to be released from this. He added that a request was made from the Township to the developer for them to cover the cost of this proposal. Regardless of whether they pay or not, approval is needed by the Board to move forward with our engineers. Leff asked if the amount needed to be in the motion. Sanders said approving the task order approves the amount.

Motion presented by Stevens to accept the proposal from McMahon Associates to assist with the evaluation of a proposed trail crossing and connection from the Flats Development on the east side of N. Walnut Street to the Anson B. Nixon Park. Leff seconded. Motion passed 2-0 with one absent.

Discussion

- Stevens asked for specifics on where the trail would go, and Ratliff explained that they were still trying to figure those details out.
- Leff thanked Stevens and Duffy for bringing this issue to the forefront, explained the history of this project, and the importance to the Board to figure out how to get a trail connecting the apartments and the park.
- Duffy commented that he was glad to see this moving forward and asked if he could be invited to some of the discussions and meetings. Ratliff said he would be happy to invite Duffy to a meeting.

d. Consider Land Management Proposal by The Land Conservancy for Southern Chester County

(www.kennett.pa.us/DocumentCenter/View/4759)

Ratliff recommended postponing this agenda item until June 2nd. He explained that this proposal from TLC, which he fully supports, would be funded out of the Open Space Fund. That cannot happen, however, until the properties are cured via the open space hearing that did not happen tonight. Both Leff and Stevens agreed.

8. Department Head Reports

a. Eden Ratliff – Administration

(www.kennett.pa.us/DocumentCenter/View/4760)

Ratliff shared some highlights from his Department Head Report that is available in the link above. He noted that the Pfizer vaccine is now available for anyone over the age of 12, shared two local COVID-19 vaccine locations, and talked about local EMS providers, including Longwood Fire Company, now administering vaccines at home for those who cannot go get one. Ratliff also spoke about the upcoming swearing in ceremony for Chief Matt

Gordon, gave more details on the meeting between the Township and the developers of the Flats apartments regarding finding a safe trail connection to Anson B. Nixon Park, outlined a recent meeting with the Borough of Kennett Square, East Marlborough Township, Kennett Township and Longwood Gardens that is discussing a potential regional approach to sewer challenges as part of the required Act 537 planning, and an update on the plans to demolish the structures on Spar Hill (an RFP will go out in June and the Historical Commission will present on July 7th why they believe the silo should be saved).

Discussion

- Stevens commented that he is looking forward to hearing about the recommended engineer for the Five Points Roundabout project from the organization SAVE from the letter they wrote the Board as detailed in the Manager's report. He added that he looks forward to hearing from all involved parties as planning begins. Ratliff said he invited SAVE to a meeting in June to introduce themselves and hear their recommendation.
- Leff said perhaps a pedestrian bridge would help solve the challenges of creating the trail crossing from the Flats to Anson B. Nixon Park. Ratliff suggested a bridge at the meeting, but it was not met with enthusiasm as permitting from DEP for a bridge is challenging.
- Leff commented that in addition to learning why people would like to save the silo at Spar Hill, he would like to know the cost differential in saving verses demolishing it and hear opinions of what the viewshed could be if it is removed.
- Leff brought up the trees along Chandler Mill Road and the desire to creatively save or reuse some of them in the development of the trail along Chandler Mill Road. Ratliff said this will be discussed in detail June or July once the next task order for design and engineering is finalized with the consultants. He said that the tree study showed only two heritage trees – one in poor condition and one in fair. He asked how the condition of the fair tree could be improved and asked for a creative solution for the trail to go around that tree.
- John Wilkens (138 Round Hill Rd) stated his support for keeping as many trees as possible and asked where he can send his ideas for creatively saving some of the trees. Ratliff said he could email Gretchen Flack and Christina Norland.

b. Amy Heinrich – Finance & HR

(www.kennett.pa.us/DocumentCenter/View/4771)

Heinrich stated her report is available online and said it has been a month of behind-the-scenes work including the 2020 audit and enhancing reporting out of Sage (general ledger). She said while the reports require a learning curve to set up, she is happy with them and feels they will improve the Board's ability to see anything they want to see. She added that revenue numbers look strong, but timing it is hard to compare to previous years due to COVID-19.

Discussion

- Stevens thanked Heinrich for the Profit and Loss and Balance reports for the different funds. He said he does have questions, but he will work through those with her offline.
- Leff said the graphs from the prior two years were also helpful to see how the Township is tracking so far.

c. Diane Hicks – Planning & Zoning

(www.kennett.pa.us/DocumentCenter/View/4761)

Hicks reported that the Planning Commission has not met since April 14th and their recommendations were already acted on by the Board. The Historical Commission met on April 26th, held their virtual seminar on April 29th called "Revealing Historic Home Secrets" featuring Seth Hinshaw, and welcomed new member Nick Popovich – and are still looking for new members. There were 21 Building and Zoning permits issued in April and no rental permits. Specifics on the permits as well as the items shared here can be found in the link above.

Discussion

- Leff asked for an update on the large Zoning update Hicks has been working on with the County. Hicks said there are two projects/grants they are working on simultaneously. The Joint Economic Development update is complete, they are finalizing that now. The second for the Zoning Code update is in the process of being finalized. It is in draft form and being thoroughly edited. She hopes to see a conclusion soon.

d. Roger Lysle – Public Works

(www.kennett.pa.us/DocumentCenter/View/4762)

Lysle shared his report available in the above link that included updates on the crack sealing program, shoulder drainage repairs, mowing, the reseeding process at Barkingfield Park, and the upcoming drainpipe replacement on

Chandler Mill Road and Hillendale Road. He also explained that a lack of product availability has pushed back drainpipe and inlet box projects until the end of July.

Discussion

- Stevens referenced a detailed engineering report supplied to the Board in the past for scheduled maintenance of all the Township roads. He said he recalled Lysle saying he is using his own schedule and no longer following that. Stevens asked if the Township wasted money getting that engineering report. Lysle explained how he does refer to it, but as projects get postponed, that changes the whole schedule. Stevens asked if it should be updated. Ratliff said that is expensive and not budgeted for. Lysle stated that while there is always value in evaluating, he does not feel it is necessary to have a new study done and that their current process is working. He offered to sit down with Stevens and show him. Leff agreed that would be good and spoke to the constant rearranging of priorities on that report.

e. **Matt Gordon – Kennett Township Police Department**

(www.kennett.pa.us/DocumentCenter/View/4763)

Gordon shared the monthly (664) and year to date (2,898) requests for police services through April along with statistics on arrests, citations, and crashes that are available in the report above. He said that there has again been an increase in vehicle break ins and urged everyone to keep their cars locks as unlocked vehicles are the target. He also urged people to not leave weapons in vehicles, whether locked or unlocked. Gordon mentioned the recent auction sale of the old vehicle and gave an update on the new car that is currently being outfitted. Once that is ready, the SUV will be reallocated to the administration side.

Discussion

- Stevens stated that he is looking forward to celebrating with Gordon at his swearing in ceremony.
- Leff agreed and said it is a milestone not only for Gordon personally, but also for the Township. He said he has appreciated Gordon's comments on issues involving the country over the past few years.
- Jeff Whittle (258 W Hillendale Rd) asked via Zoom chat, "Is there a plan to deal with truck traffic in Kennett township as a result of the pending closing of Old Route 1 from Union to Chambers Road?" Gordon first apologized for not returning Whittle's email and stated he was sorry to see him resign from the Safety Committee. Regarding his question, Gordon said he has been in conversation with the Southern Chester County Regional and Kennett Borough Police Departments to come up with a plan to reroute truck traffic. Whittle said he was not sure how to best address this other than camping out at the Five Points intersection and ask truckers to go another way. Gordon agreed that offering truck detours may be a solution. Gordon reported on one recent truck stop that went over the bridge, which was surprisingly underweight.

9. **Public Comment**

Discussion

- Jeff Whittle (258 W Hillendale Rd) asked via Zoom chat, "Will the work at West Hillendale and Chandler Mill allow large tractor trailers to turn there?" Lysle said when the work is completed yes, but they will likely still stay on the road even after it is widened. Whittle said it will be good to help divert some of the traffic from the bridge. Gordon offered to send a marked car to that location when the work is being done, which Lysle said will either be next Tuesday or Wednesday.
- John Wilkens (138 Round Hill Rd) commented regarding the bridge on West Hillendale Road just west of Chandler Mill Road, that his observation is that trucks blatantly disregard the weight limit. Leff agrees and thinks it is a chronic problem for not just that bridge.

10. **Adjournment**

Motion presented by Stevens to adjourn. Leff seconded. Motion passed 2-0 with one absent.

The meeting adjourned at 8:25 p.m.

Respectfully submitted,
Eden R. Ratliff
Township Secretary