



Board of Supervisors Meeting Minutes

Hybrid Meeting Via 801 Burrows Run Road & Zoom

June 21, 2023

7:00 p.m.

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

Absent: None

1. Call to Order

2. Pledge of Allegiance

Chairman Gamble recognized Juneteenth that was celebrated earlier in the week which marked the time when the slaves in Texas were told they were free in 1865. Before we congratulate ourselves, we need be aware that in the world today there are an estimated 21-45 million people in slavery. Modern day slavery: domestic servitude, human trafficking, sex trafficking, forced marriage, child labor etc. The United States makes up 403,000 people in servitude.

Supervisor Stevens asked if the numbers Chairman Gamble cited included penal slavery as well?

Gamble: No. 13th amendment states that people in the United States who are in jail are exempt from the definition of involuntary servitude.

Stevens: the numbers could be substantially higher than that. Guaranteed.

Gamble: Without a doubt, there are several people who are in jail for no reason.

3. Embezzlement Recovery Update

There were no updates to provide.

4. Executive Session Announcements

There were no Executive Sessions to announce.

5. Meeting Minutes

a. May 17, 2023

www.kennett.pa.us/DocumentCenter/View/6519

Motion to adopt the May 17, 2023, Board of Supervisor meeting minutes was made by Stevens and seconded by Leff. Motion passed 2-0. Vice Chairman Leff abstained since he was not present at the May 17, 2023, meeting. Motion passed 2-0.

b. June 7, 2022

www.kennett.pa.us/DocumentCenter/View/6521

Motion to adopt the June 7, 2023, Board of Supervisor meeting minutes was made by Stevens and seconded by Leff. Motion passed 2-0. Supervisor Stevens abstained since he was not present at the June 7, 2023, meeting. Motion passed 2-0.

c. Bird Town Presentation

www.kennett.pa.us/DocumentCenter/View/6520

Janet Krevenas: I am a part of an Environmental Council and the Secretary of the Bird Town of Newtown Square. It is my pleasure to be here tonight and present you with the certificate as you have passed the Resolution that transitioned from an Audubon Bird Town to a Bird Town Pennsylvania. This occurred when Audubon reconfigured the Pennsylvania and Maryland Audubon to MidAtlantic. This is what is new to Bird town Pennsylvania. The transition started in Spring of 2021. It has become a 501c3. I noticed coming into your township that you have great landscapes for birds and wildlife. We have 41 Bird Towns in southeast PA, that stretch up to Allentown and out to Harrisburg. Bird Town has six strategy areas: Municipal Actions, Schools and School District Actions, Community Engagement, Habitat Enhancement, Collaborations and Advocacy. There is a QR Code that was given to Kassie, where if residents are interested, they can get their properties certified if they have an intentionality to support birds and pollinators. There are two publications- Bird Town flyer that comes out every other month and The Bird Beat which is a quarterly opportunity for residents. I have four signs with me tonight with the new logo for you to put up on your street signs.

Richard Gaw (Chester County Press): How does the Township qualify as a Bird Town?

Janet Krevenas: As a Bird Town a Township would need to pass a resolution by the Board of Supervisors stating that you are working toward sustainability within those six different strategies. Every community enters at the Green Level which is the start and with different activities that are completed, the community can move up to a new level.

Gaw: Does the Township have to reapply every year or is this a permanent designation?

Krevenas: Every year the Township will submit a report, listing out the activities that they have done and are new to the Township then they can move up to a different level. If there has not been an opportunity to increase activity, it is fine to stay at the Green Level. We ask that you form a 3-member team with Bird Town which is usually under the direction of the EAC.

Gaw: Lastly can I get a quick picture?

Gamble: We will adjourn for 3 minutes to take a picture.

6. Public Comment on Agenda Items

No comments were made.

7. Business Items

a. Consider June 21, 2023, Bill Voucher

www.kennett.pa.us/DocumentCenter/View/6525

Motion to approve the June 21, 2023, Bill Voucher in the amount of \$182,890.36 and to approve total transfers in the amount of \$36,896.28 was Stevens and seconded by Leff. Motion passed 3-0.

b. Consider approving the AECOM proposal for Phase 1: Act 537 Plan Update

www.kennett.pa.us/DocumentCenter/View/6524

Motion to authorize the Township Manager to execute the Work Authorization proposal from AECOM, dated June 9, 2023, for development of Phase 1 of the Act 537 Plan update in the amount of \$56,000.00 was made by Leff and seconded by Scudder.

Ratliff: This is a proposal from the Township engineer to complete Phase I of the Act 537 plan. An Act 537 plan is a required plan that every municipality that provides sewer to its residents is required to have. Kennett Township has one and it is very old, and it is now time to update. We are in a collaborative process with the Borough who are updating their Act 537 plan and doing it jointly. An Act 537 plan has two phases. Phase I is everything that currently exists about the joint system and Phase II is to obtain everything that needs to happen for the future of the system. We are currently in Phase I which will take us well into next year. It is a budgeted project for sewers that was adopted

by the Board this year. Phase II will happen later and is slated to be with Pennoni who is the Borough's engineer which will produce a joint Act 537 Plan. The Township has a sewer infrastructure, all our public sewer, with the exception of Hamorton and a few other individual neighborhoods, all go to the Borough's Sewage Treatment Plant which makes sense for it to be a joint study.

Stevens: If I remember, we brought in a third engineer in to "referee" if there is a conflict between the Borough's engineer, Pennoni and the Townships engineer AECOM. This would be one more Lego in the land plan for redoing the sewer Act 537 plan.

Ratliff: The Township and the Borough appointed Carroll Engineering as a third-party neutral engineer if there is a dispute between Pennoni and AECOM for some reason over the Act 537 Plan both municipalities agree that Carroll Engineering will have the final say in that process.

Leff: Is this amount fixed or is it up to a certain amount?

Ratliff: It will not exceed \$56,000.00. This is close, the Borough's proposal with Pennoni was \$60,000.00.

Gamble: Should the motion then read "not to exceed the amount of..." instead of "in the amount of..."? Ted, are you comfortable with this?

Ratliff: It is very clear in the AECOM proposal that you will be signing what the amount is.

Otteni: Yes, I have reviewed the proposal and agree.

Stevens: If it comes in lower than \$56,000.00, Amy will be happy.

Motion passed 3-0.

c. Consider approving the Mitigation Credit Commitment Agreement

www.kennett.pa.us/DocumentCenter/View/6569

Motion to authorize the Board Chairman to execute the Agreement with First Pennsylvania Resource, L.L.C. was made by Leff and seconded by Stevens.

Ratliff: The Kennett Greenway on Chandler Mill Road is nearing the point where PADEP is ready to issue us a permit to begin, which is very exciting. One of the conditions of the permit is we need to have an agreement with a bank, not a financial institution but a mitigation credit bank to purchase wetland mitigation credits for the project. It is not uncommon in the commonwealth that when you are going to disturb wetlands of this magnitude you would need to do restoration efforts, the part that is new, is that you must purchase credits to do so. We have been working with DEP over the past few months to see what that looks like. In the contract from the Quaker Mitigation Bank to purchase credits for the wetland disturbance and stream side disturbance, as a matter of philosophy, some of the staff and the consultants disagree with this statute and the restoration, which is important to note. The reason we are recommending this be approved by the Board of Supervisors is because this is a requirement for us to get the DEP permit to proceed with the project. The financial cost for the Townships is approximately \$42,000.00. We have on the wetland area .0447 disturbance, and we need 38 credits for stream restoration. Getting back to the philosophy issue, we are doing stream restoration to streams that are eroding as part of this project, yet we are paying a penalty by purchasing credits that will go to restoration efforts elsewhere in the commonwealth. There is a bit of a philosophical difference there, but it is not up for negotiation for the municipality. This is a \$42,000.00 liability. We are going to purchase these credits through the Quaker Mitigation Bank where they collect the money along with other municipalities who are doing similar things to do environmental restoration work elsewhere in the commonwealth.

Stevens: The size of the stream restoration in question equates to the size of this room. I am trying to make 0.0447 acres make some sense in one's mind. I would also like to state that this is a new Act and our township is one of the firsts to deal with this.

Ratliff: Just to clarify, it would be the wetland disturbance area that is the size of the room. The concept of municipalities with large projects having to do wetland mitigation is not new, it has been around since maybe the 1980's. What you used to do was to create a wetland within your municipality if you were going to disturb a wetland in yours. The concept of purchasing credits through a bank that is regulated by the Army Corps and PADEP is new. The process of how that works, I believe we are the first or one of the very first projects in Pennsylvania that must go through that process, so figuring out how that is applied has been an experience.

Stevens:

Ratliff: Your point is well taken; the concern is that \$42,000.00 of taxpayer funding is going to leave the Township and go to a bank to make environmental improvements elsewhere in the commonwealth, whereas with part of our project we created some type of restoration, that is something that our residents would embrace. It is not that the money is going to waste within the Quaker Mitigation bank, they are putting in the work, and after speaking with some of them they do believe they are doing great work.

Gamble: I would like to make an amendment to the motion to read "Motion to authorize the Board Chairman or Vice Chairman to execute the Agreement with First Pennsylvania Resource, L.L.C."

Leff: I will accept the amendment.

Stevens: Why are we amending the motion?

Gamble: I am not planning on voting for it. Eden has already said my reasons. The idea that we are spending taxpayer dollars to do wetland restoration in Erie, Pennsylvania strikes me as not a very good bargain, even if something in our own Township costs more. It strikes me as environmental communism.

Leff: If we were to restore wetlands within the township, how much would it cost us and where would we do it?

Ratliff: I want to gently remind the Board this was not an election for the Township. This is what the regulator is saying we are going to do.

Stevens: You just made a point earlier. What if Erie decides to clean up Presque Isle and they pay into the bank and some years down the road we get something back. If you look at the bigger picture, doesn't it all work out?

Gamble: In 100 years you may be right. I am thinking of the here and now. And I think it is going to be a long time before we get paid back.

Otteni: We have wetland impacts we are obligated to do wetland mitigation. The newer requirement, DEP recognized that projects sponsors, such as ourselves, are trying to do .044 acres of wetland mitigation is kind of frivolous. That isn't a lot of bang for the buck. There may have been sponsors who were digging out ditches and calling it a wetland so they could get their credits. If we were to do this by ourselves the old way; we would need to acquire the right of way, find a spot that is suitable where wetland can be sustainable: excavate it, bring in the soils, vegetation etc. There would be costs associated with all of that, it not only saves money by putting it into this bank it is pooling the wetland efforts somewhere that is has the magnitude where wildlife can survive in it and be sustainable. There are benefits to it, I appreciate the sentiments that it is not here in the Township, but it is in the commonwealth.

Leff: I do not think any of us like paying additional expenses, especially with something new means of pulling resources. We are a commonwealth, if you were the Commissioner of Chester County and you could have it within the county, it might not be so bad.

Otteni: We are disturbing 0.044 acres of wetland. I need to correct the scale; it would be about 4x the size of this room.

Motion passed 2-1.

d. Consider change order for Kennett Greenway Project on Chandler Mill Road

www.kennett.pa.us/DocumentCenter/View/6568

Motion to authorize the Township Manager to execute the Kennett Greenway on Chandler Mill Road Phasing Supplement was made by Stevens and seconded by Leff.

There is a supplement in front of the Board tonight which is supplement 9: change order for the Greenway project on Chandler Mill Road to change the bid document quotes. There are two landowners which the Board has not been able to get right-of-way and easements from for the Greenway currently. That represents about 50% of the project between the Whittle connection and the Chandler Mill Bridge. What we have is a proposal to put together bid documents for a lesser project of the Greenway at this time. We are going to focus on is Brewer and Whittle parcel which is the Whittle connection up to 700ft shy of Oriole Road. That will be designed as Kennett Greenway in that task order. The next thing we are proposing is two phases with BRC- Brandywine Red Clay Alliance formerly TLC. 1. Is Roundhill Rd. to the lookout and that is going to be Alternate 1. Alternate 2 would be from Roundhill to the bridge. We have worked with BRC, who is interested in supporting the project. We are concerned about the budget. We have about \$1.6 million of grant money to spend by June 30, 2024, which is in part motivating us to bid out the project as I outlined here. With the alternates we are not sure what we are going to get with the inflationary environment and the pressing environment. At least with the alternatives we can choose to accept or deny it. If you were following along with the Spar Hill demolition. We did a bid all and kept the silo as a bid alternate. We will be doing the same process for this project. Essentially, we are focusing on the Kennett Greenway from Oriole north. We are 700ft shy, which we will figure out once the bid is on the street. We do not believe we are eligible for another grant extension, so we are on a stressful timeline. The Board will continue to work on the south portion of the Kennett Greenway and those landowners, but we are not in a responsible position to bid on it all at this time.

Gamble: How much is the change order?

Ratliff: \$52,000.00

Motion passed 3-0.

Richard Gaw (Chester County Press): I want to confirm that there are two projects. (1) is stream restoration and the creation of an overlook at the BRCA, formerly TLC near the Chandler Mill Bridge area and the second is Oriole Dr. - and Hillendale Rd. - can you fill me in a bit more.

Ratliff: The Whittle and Brewer parcel to the right leads you to about 700ft shy of Oriole. This is going to be the base project we are bidding on. We are bidding on two alternatives which are on BRC property. The one is as you described and two is connecting that to the Chandler Mill Bridge. Bid all two would be Round Hill to the Chandler Mill Bridge. The Board just approved that, so we will take these options to bid and see what the price is and review with the staff, consultants and Board of Supervisors and see which option will be awarded.

Diane McGovern (345 E. Hillendale): The land that is being impacted in 7c. Is that the land that is being impacted in 7d.?

Ratliff: Some of it is in the mitigation credit and some of it is not. We have worked with RES and there is a chance that we may be able to sell some of those credits back.

8. Department Head Reports

a. Eden Ratliff – Administration

www.kennett.pa.us/DocumentCenter/View/6566

b. Amy Heinrich – Finance & HR

www.kennett.pa.us/DocumentCenter/View/6526

Pat Muller (22 Deer Pond Ln.): Is there an after-market fire equipment to help mitigate ongoing costs?

Heinrich: It is minimal. The price you pay, the amount you could get in the secondary market is they typically use it as the primary response vehicle for 15-17 years. Then it moves into the second line back up where they keep it for another few years in case something on the front line fails, or for extra calls, larger fires etc. and then it is removed.

c. Diane Hicks – Planning & Zoning

www.kennett.pa.us/DocumentCenter/View/6522

Gamble: What is the cost of Greenwood school? KACS is \$15 million.

Hicks: It is not yet determined, as they are still in the Sketch Phase. They have not discussed anything financial yet.

d. Ted Otteni – Public Works

www.kennett.pa.us/DocumentCenter/View/6523

e. Matt Gordon – Kennett Township Police Department

www.kennett.pa.us/DocumentCenter/View/6528

Stevens: You referred to the value over \$10,000 and under \$10,000.00, does that refer to a felony vs. a misdemeanor.

Chief Gordon: Correct.

9. Public Comment

Peter Doehring (5 Nine Gates Road): Bearing in mind that the Chandler Mill Trail was going to be a \$600-\$700,000 design that was conditioned for Chandler Mill, so it is now going to be an additional \$52,000.00 on top of that. It sounds like we are going to have disconnected sections- one at the top and one at the bottom. Eden's presentation would suggest that there is some room for negotiation to connect them. I have been in contact with both landowners, and they have made it clear that they did not want a trail on their property from the start. The Supervisors will not be seizing the land, so I am a little puzzled at the benefits are, maybe to say that we just spent money? Included in the original design for Chandler Mill and the alternatives that I have submitted, are ways to control the speed on Chandler Mill that would benefit cyclists. The plan that was approved did not have a path for cyclists they were going to be on the road. We still have cyclists going down Chandler Mill Road, we know there is limited sight distance which poses a danger. There isn't a plan to move forward and implement some of these traffic calming measures. It is a lost opportunity in my opinion. If we were to implement some of these traffic calming measures with some of the alternatives that I have submitted. We would have a safe and comfortable roadway for all users: motorists, pedestrians, and cyclists. This would then take the pressure from landowners to put a very expensive pedestrian path. I would have liked to see a base plan of traffic calming measure that the designers themselves suggested with some of the enhancements that I have submitted to this group. We can make Chandler Mill safe and comfortable for cyclists right now. These are not expensive options and if we were able to implement them it would give us a chance to test just how successful they are in reducing speed, and potentially spreading this elsewhere in the Township.

Leff: I would like to make a statement; I bicycle around Kennett Township and the road that I find safest to be on is the section of Chandler Mill Road between Hillendale Road and the bridge. I certainly appreciate Mr. Doehring's concern for cyclists, I am comfortable with the design and the limited traffic going across the bridge, since we rebuilt the bridge and closed it for through traffic; that has been an improvement.

Gamble: Peter thank you for your interest, concern, and the time it takes to propose the ideas to be considered by us going forward. My own feeling with the section at the north and the south is that we must have patience. It may take us 50 years, but we do have a plan and sometimes it takes a while for things to fall into place. Speaking for myself and no one else on the Board, the idea of condemnation for something like this is just not in the picture.

Ratliff: To clarify my comment earlier, we are not continuing to negotiate with the landowners moving forward- we have open lines of communication in a sense that we are always willing to chat. What I was alluding to was that we have other options that make sense to explore after we complete the project that the Board approved tonight and that the design of the entire Chandler Mill Trail is helpful as future alternatives are explored.

Gamble: Eden, can you give us a brief update on the situation with the Kennett Square Borough and the Fire Commission?

Leff: At the last Fire Commission Mayor Fetick was there and did not bring up any requests or make a statement. Nothing was publicly done.

Ratliff: In the late spring the Borough of Kennett Square commissioned a study of Fire and EMS delivery within the Borough of Kennett Square only. They gave the company 60 days and gave a public presentation at the beginning of June to the Borough Council where information was presented, some accurate, some not. Ultimately, they made several recommendations to the Borough. The overview was that the Borough was better off remaining in the Regional Commission which administers funding to the regional fire companies: Longwood, Kennett, and Po Mar Lin fire company to the municipality region. The consultants explained to the Borough that it would be very costly for them to pursue other options, other than to stay in the commission. We were hoping to hear from the Borough at the Commission meeting since no plan was enacted. They had the presentation on Monday and a follow up meeting on Wednesday, where they focused on other business and the equipment replacement schedule that Amy presented on and there were no comments. There is some concern in the community that the Borough may remove itself from the Regional Commission, according to the bylaws they have until June 30, 2023. You must give six months' notice to be out the following year. If they do not give the commission notice within the next nine days, they will be in the commission until the end of 2024.

10. Adjournment

Motion to adjourn was made by Gamble and seconded by Stevens. Motion passed 3-0.

The meeting was adjourned at 8:22 p.m.

Respectfully submitted,
Eden R. Ratliff
Township Secretary