



Board of Supervisors Minutes

July 21, 2021 | 7:02 PM

Hybrid Meeting: 801 Burrows Run Rd - Public Meeting Room & Zoom

Present: Dr. Richard L. Leff, Chairman; Whitney S. Hoffman, Vice Chair; 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

1. Call to Order

Chair Richard Leff called the meeting to order at 7:02 p.m., explained how this new hybrid Board of Supervisors Meeting would be conducted, and offered a COVID-19 update. Hoffman shared the concerns she has heard about vaccinated people still getting the new variants even when at outside gatherings. Stevens said that due to people refusing to wear masks and not getting vaccinated, he fears we are heading toward another wave with the Delta variant. He again asked everyone to join him in wearing masks.

2. Township Recovery Update

Leff read the following statement:

On Monday, July 19, 2021, former Kennett Township Manager Lisa Moore's embezzlement case was called for trial in the Chester County Court of Common Pleas. Moore's attorney asked for a continuance until September and indicated plea negotiations are taking place between Moore and the District Attorney's office. The continuance until September was granted by the Court.

Last week Moore posted her Kennett Township home for sale. A county judge on Monday ordered that the proceeds of any sale of Moore's McFarlan Road home would be transferred to the Chester County Court Administration Office to be retained and applied to any restitution ordered in Moore's case.

We urge everyone to remember that Lisa Moore has not yet been convicted of a crime and thus she has several options under our laws. She can enter into a negotiated guilty plea where Moore and the DA's office agree to punishment, including restitution, subject to court approval. If an agreement cannot be reached, she can enter an open plea before a County Court judge and have the judge determine her punishment. She can also decide to proceed with a trial, either before a jury or a judge. Under our laws, Moore continues to be considered innocent.

The Kennett Supervisors will continue to keep you informed of the status of the embezzlement case, as we have since the beginning. The township and our legal counsel continue to aggressively pursue full restitution for the money taken in the embezzlement.

Discussion

- Richard Gaw (Chester County Press) asked for more specific information on where we are restitution to date. Leff said that the Township is still seeking full restitution of \$3.2 million and said that the amounts recovered thus far have not changed: we have received a \$1 million bond and a little over \$80,000 in escrow. Gaw also asked if the read statement would be available on the website. Ratliff said yes it would, after the meeting.
- Stevens commented that we do not control restitution; that is determined by the DA and the judge. Once the criminal case is over, then it shifts to the civil and that will be a different ball game.
- Geoff Gamble (560 Chandler Mill Rd) asked in either the criminal or civil case, if Moore will have to pay back the \$1 million to the bond agency before the Township gets anything else back. Ratliff said the Township did not

sign any agreements with the bond insurance agency that would require any kind of subrogation, so the collection of the \$1 million does not hinder our ability to collect any restitution owed to us from the accused.

3. Executive Session Announcements

Solicitor Sander announced that the Board of Supervisors met in Executive Session on June 21, 2021 to discuss a matter of litigation.

4. Meeting Minutes

a. June 16, 2021

(www.kennett.pa.us/DocumentCenter/View/4849)

Motion presented by Hoffman to approve the June 16, 2021 Board of Supervisors Meeting Minutes. Seconded by Stevens. Motion passed 3-0.

5. Matt Sabo, Environmental Advisory Council Presentation

(<https://www.kennett.pa.us/DocumentCenter/View/4852>)

Matt Sabo, chair of the Environmental Advisory Council (EAC), shared two presentations available in the slides above. The first was on the Revolving Water Fund (RWF) and the second was on managing the mowing of Barkingfield Park, both offering recommendations by the EAC.

Discussion

- Regarding the projects that the RWF will work on, Ratliff said that there will be a public process as they will be reviewed at a meeting. He added that these projects will also have to be dealt with in the TMDL Plan that will be approved by DEP – and that TMDL Plan will be subject to a public hearing hopefully this year.
- Marla Palmer (EAC member) commented that Sabo did a good job with his RWF presentation.
- Leff and Ratliff discussed MS4 requirements, that the RWF will give the Township nine tons, or 15 credits, which will help the Township get over the 100-ton threshold for the first five years. Leff asked if the amount would change in the next five years and both Ratliff and Sabo agreed that most likely DEP will change it, but they cannot guess to what and that there are many more steps coming.
- Ratliff summarized the history of MS4.
- Leff commented on a water sampling project he completed growing up and talked about the difficulty in precisely measuring something like this. He and Sabo discussed runoff and the effects both up and down stream.
- Hoffman also shared a runoff water project she participated in while living in Florida. She asked Sabo if weather changes, like the increased storms, is adding to our runoff. He said it was a concern and this is being studied as a long-term trend as well as the changes in land use.
- Stevens said that if the purpose of this presentation was for the EAC to be heard, that they will continue to be heard, and that the public will be included as well, he is in full support of this presentation as their lack of involvement was troubling to him. Sabo said that while oversight was not their concern, they just wanted to ensure that they understood what was going on and could close the loop, which with his recommendations can now be done.
- Diane McGovern (345 E Hillendale Rd) asked Sabo how many streams in Kennett Township the EAC following for sediment levels. Sabo said he has only begun looking into this and shared information about the USGS monitoring system that measures turbidity of the west branch of the Red Clay Creek located between State and Cypress Streets. He said that if proposed projects extend to other streams, he would recommend they be monitored as well.
- Leff thanked Sabo and the EAC for their work.
- Leff provided background on Barkingfield, stating that the field closest to the Public Works garage used to be a field of milkweed and the Township started over with the help of volunteers and invested in professional services.
- Stevens agreed that a once-a-year mowing would be good, but suggested mowing in the fall as opposed to the spring after wet winters as he is concerned about the weight of heavy equipment on wet ground. Sabo said that the suggestion to mow in the spring came from the land steward with The Land Conservancy for Southern Chester County. Keeping the crop though the winter acts as habitat for small mammals as well as protecting the ground

against erosion. Lysle added that there are pros and cons whether it is mowed in the spring or the fall. He said if what is happening now is working, continue doing it as adjustments can always be made in the future.

- Leff asked Sabo to elaborate on why the EAC was proposing to only mow the large back field once a year as it is a completely different field. Sabo said that it is still a viable habitat even though it is only growing grasses/hay that supports pollinators, insects, and fledgling birds. Over time, that field will transition to be more like the other field.
- Hoffman asked if there was any financial contract with Ben Cordivano (who currently mows and harvests the hay in that large field south of the hedgerow) and Sabo said no and reiterated that it has been a handshake deal for years with no formal agreement. Ratliff commented on his concerns about a handshake deal and speculated as to how that came to be.
- Hoffman spoke to the symbiosis currently between this arrangement with support for the mushroom industry and she wants to make sure they continue to think about how to support them. Ratliff agreed.
- Don Coats (Barkingfield Volunteer) stated in regard to the timing of the mowing that early spring is standard for our area and gave examples of the Delaware Nature Society and the Flint Meadow in Centreville who have this schedule. He also added that the current abundance of birds in Barkingfield is impressive and listed those birds.
- Sabo said that the recommendations for mowing would be for 2022 and he and the volunteers would work with Lysle to schedule the mowing and other maintenance needs.
- Stevens asked if Sabo was speaking on behalf of the committee for Barkingfield. Sabo said he was not sure if there was an official committee, but said he was referring to the great volunteers who have done the work thus far. The EAC has reviewed their plans, agrees with them, thinks they align with the Stewardship Plan and thinks they should move forward. Stevens said he would like to hear from the volunteers.
- Leff said that the proposal for the meadow closest to the garage makes sense to him. He then discussed his concerns with changing the way the hay field is addressed including where else the hay could grow and how to prevent it from becoming overrun with invasives. Sabo said that the EAC could come up with a proposal to address the invasives and seeding. He added that while he does not disagree about the hay, he was not sure why that would be a Township responsibility.
- Ratliff clarified that the Board is not being asked to make any decisions at this point and that there are opportunities for further conversations with the volunteers and with Cordivano. Heinrich added that should a proposal be drafted for 2022, that would need to be included in the upcoming budget request process.
- Diane McGovern (345 E Hillendale Rd) commented that four or five years ago, the hay field was not mowed, and it was overflowing with butterflies – both in quantity and variety. She said that she feels people would enjoy it.

6. Old Business

a. Ratify Tax Exempt Request

Motion presented by Hoffman to ratify the filing of tax exemption appeals for 557 E. Hillendale Rd. and 424-436 Burnt Mill Rd (Spar Hill Farm). Stevens seconded. Motion passed 3-0 after the following discussion.

Discussion

- Heinrich explained that the Township is still paying taxes for both Spar Hill and the property from the Meadows family. The Township applied for a tax-exempt status, but the determination by the County tax assessors was that while the land could be tax exempt, the buildings on the property should be open to the public if they were to be tax-exempt. Since they are not, they will cost ~\$17,000 in taxes annually. Our solicitor has appealed that determination both informally and formally as they do not agree with the tax board because the buildings are not safe for the public. Heinrich noted that there are discussions currently about what to do with the buildings and she is unsure about how the timing of those conversations will impact this.
- Leff asked what the cost would be for this appeal and Heinrich and Ratliff said minimal since it is continuing the conversation with the tax assessment office. Should this go to court, it could get more costly, but it will come back to the Board if it goes to court. Sander added that the cost will be significantly less than the \$17,000 that would be paid in taxes if this was not appealed. He said that if the Township is charged taxes for this year, he advised we pay them because a pro-rated refund would be available if it is determined that the properties are tax exempt.
- Scudder stated he agreed with Sanders's assessment.

- Heinrich stated that the decision could go into the next tax cycle depending on what decisions are made about the buildings on the property.

7. New Business

a. Consider July 21st Bill Voucher

(<https://www.kennett.pa.us/DocumentCenter/View/4840>)

Motion presented by Hoffman to approve the July 21st Bill Voucher in the amount of \$556,312.39 and to approve total transfers in the amount of \$980,559.61. Stevens seconded. Motion passed 3-0.

Discussion

- Leff asked Heinrich to explain the amount of the transfers. She said that most of those were in accordance with how we pay the bills out of the consolidated account. The biggest transfer was moving money between the EMS account where that tax gets deposited through to the consolidated account from which we spend the money for police and EMS. This system was inherited by her team, and it is noted on the bill voucher to increase transparency.
- Hoffman commented that she is enjoying Sage Intaact and being able to drill down on the bills.

b. Consider Avello Escrow Release 2

(www.kennett.pa.us/DocumentCenter/View/4841)

Motion presented by Hoffman to approve the Avello Land Development Escrow Release No. 2 in the amount of \$54,500.25 per the AECOM letter dated July 7, 2021. Stevens seconded. Motion passed 3-0.

Discussion

- Stevens commented that he was disappointed to hear about some of the attitudes that have been expressed by Enrico concerning this Township and this Board.
- Heinrich said this was a standard release that has been certified to be completed. This is a cash escrow, and the bill voucher shows this check to be cut.
- Leff said there would be \$281,000 remaining in the escrow after this release.

c. Consider 2021 Paving Program Bid

(www.kennett.pa.us/DocumentCenter/View/4842)

Motion presented by Hoffman to award the In-Place Paving to Long's Asphalt in the amount of \$346,572.50, and the In-Place Oil & Chip to Asphalt Industries in the amount of \$43,155.00, and to authorize the Township Manager to execute the contracts. Stevens Seconded. Motion passed 3-0.

Discussion

- Leff noted that this was over budget and Ratliff said yes, \$33,000 over budget.
- Lysle commented that due to the pandemic and the cost of materials, a lot of bids are higher, and a lot of paving programs have been canceled because across the area of it.
- Stevens stated that this is what it is. This was a public bid, and this was the lowest bid. Leff added that we went in with a group of other municipalities for larger buying power. Lysle confirmed that this was bid through the co-op of seven townships and two boroughs.
- Leff asked if the Board needed to do anything else considering it was over budget. Ratliff said no, not other than acknowledge it at a public meeting. He added that at the end of the year there may be a budget amendment proposed, but that depends on the result of the overall budget.

d. Consider Mushroom Festival Donation of \$2,500

(www.kennett.pa.us/DocumentCenter/View/4850)

Motion presented by Hoffman to become a Shiitake Sponsor of the 2021 Mushroom Festival for a total donation of \$2,500 as budgeted in the 2021 Kennett Township Budget. Stevens seconded. Motion passed 3-0.

Discussion

- Ratliff noted that in previous years, the Township had been a White Button Sponsor (\$10,000), but throughout the budget development process, the Board saw that as seed money and decided to continue supporting this, but at a lesser level. He said that the Borough of Kennett Square's contributions will be in-kind this year, likely the time and efforts of their Public Works Department.
- Leff said that it was good to see that the festival was back and mainly outdoors for safety purposes and he knows they will make the right decision should things change.
- Hoffman added that she volunteers to sell mushrooms during the event, and everyone should participate as it is a volunteer-run event.
- Stevens said that this benefits the growers in the Township and the region so it is something we should do.

e. Consider Plumley/Tobia Lot Line Revision

(www.kennett.pa.us/DocumentCenter/View/4851)

Motion presented by Hoffman to grant approval of the Final Minor Subdivision Plan for the Plumley/Tobia application prepared by Register Associates, Inc. consisting of 2 sheets with approval of the requested waivers given that no earth movement or construction is proposed with this application conditioned on any open items in the June 16, 2021, review letter are resolved. Stevens seconded. Motion passed 3-0 after the following discussion.

Discussion

- Leff stated this was a simple maneuver of taking some land from one property and making sure the other property is conforming to the amount of impervious coverage.
- Hicks said this was simply taking 9,232 square feet of land and transferring it to the neighboring property which will make both properties conform. Currently, only one of the properties is conforming.
- Hoffman asked if anything prompted this change and Hicks said that Mr. Plumley has been mowing this ground for years.
- Leff said he presumes both parties have reached this agreement.

8. Department Head Reports

a. Eden Ratliff – Administration

(www.kennett.pa.us/DocumentCenter/View/4843)

Ratliff kicked off his report by welcoming everyone to the first in-person Board of Supervisors meeting in over a year. He then detailed his report available in the above link, highlighting Roger Lysle's 40th work anniversary, a barn fire that occurred in the early morning hours of July 5th as a result of fireworks, and current surveys that are available from the Chester County Water Resources Authority that residents should take to help form the upcoming Watersheds plan. Additionally, he explained some of the challenges the team is facing trying to rely on the outdated, hodge-podge technology in the Public Meeting Room for these hybrid meetings, saying that the Board will hear proposals on how to update these systems soon for better efficiency. Due to the changing legal opinion about meeting in public after the Governor's emergency declaration was lifted, we must meet in person and the Township does not want to lose the remote access option. He elaborated on the Sunshine Law and some differences between a second class township and a borough. He wrapped his report up by detailing the newly adopted Act 65, which deals mainly with Board of Supervisors agendas and offered updates on short-term and long-term sewer planning.

Discussion

- Megan Gamble (560 Chandler Mill Rd) sked if Hockessin also responded to the barn fire and Ratliff said yes, they are a part of the regional response plan. He then elaborated on fire companies crossing state lines.
- Heinrich commented that it will take a little time to receive all the technology quotes plus the time to implement any changes.
- Leff asked how many units were part of the Mitchell Homes project and Hicks answered 72. Ratliff said that even if Mitchell Homes was not there, the Township would still be facing the same sewer issues.
- Matt Sabo (805 Nutes Farm La) commented that 12 years ago when they first talked about Act 537 planning, the then Supervisors asked he and Bob Listerman to investigate spray field disposal. He outlined what they learned and said he wanted to put it on our radar that even though the estimates would not be the same, the data was there. Ratliff said that in addition to needing the land to use this on, there was also a need to

transport the sewage to the location, that there are limited times spraying can occur, and said he believes Longwood Gardens was not thrilled with their current spray field system.

- Stevens commented about how someone a long time ago seemed to have drawn a line down the Township, where those on the Route 1 side had access to public water and sewer and those on the Delaware side did not. He is hopeful that when the larger problem of the infrastructure is addressed, so too will this problem as those like himself who are on the south side would like to contribute. Hoffman added to the discussion about different septic systems around the Township, saying this sewer problem will continue so the more proactive the Township can be, the better.
- Leff asked if the engineering survey Ratliff discussed in his long-term sewer update would include the current systems and options for expansion. Ratliff said phase one will only study the current systems and will have to be done in accordance with the Borough's current systems. Phase two, which may be done regionally, will address potential options.

b. Amy Heinrich – Finance & HR

(www.kennett.pa.us/DocumentCenter/View/4844)

Heinrich outlined her report that is available at the above link and on the Finance page of the website. She offered an update on the 2020 audit, saying there are a few things that still need to be finished but time has not allowed them to be completed yet. Once it is done, Chris Herr from Maillie LLP will come and present at a Board of Supervisors meeting. She said some of the Department Heads now have access to Sage Intacct and soon everyone will, making it a paperless process with the exception of signing checks. The 2022 budget process groundwork is underway and will begin soon. She shared updates on the sewer billing process and on the HR front, reported two job openings as well as standardizing an employee performance review process. She said the tax data coming in is strong compared to both 2020 and 2019.

Discussion

- Leff commented that the new general ledger system will help the audit process next year and Heinrich strongly agreed.

c. Diane Hicks – Planning & Zoning

(www.kennett.pa.us/DocumentCenter/View/4848)

Hicks shared her report that detailed the recent topics of discussion from the June 28th Historical Commission meeting and shared updates from the Planning Commission meeting that occurred on July 14th. She said that the Planning Commission has recommended for approval a text amendment for a medical marijuana dispensary that will come before the Board at a meeting next month. There were 32 Building/Zoning permits issued in the month of June and 9 Rental permits. The details of this report are available at the link above.

Discussion

- Hoffman discussed the potential down the road for a medical marijuana dispensary being changed to include recreational use should Pennsylvania laws change in the future. She asked Hicks if that is being considered. Hicks explained that they are focusing on what is current and if a shift to recreational marijuana occurs, that will be a whole separate ordinance that will be addressed then. Ratliff confirmed and said that it would come back before the Board.

d. Roger Lysle – Public Works

(www.kennett.pa.us/DocumentCenter/View/4845)

Lysle first thanked everyone for his 40th work anniversary acknowledgement and said that one of his daughters could not be there but everyone else caught him off guard. He then proceeded with his report available at the above link that included updates on drainage repairs, a new inlet box and pip on Sills Mill Road, storm damage, the temporary closure of Hillendale Road due to a downed powerline, an update on the Route 82 and Cedarcroft Road intersection, mowing, pump station repairs, yard waste pile and scrap metal recycling, and the current job opening for the road crew. He thanked his current crew for keeping things going while being short handed this summer, saying they have done a great job.

Discussion

- Leff asked if Lysle has noticed an increase in dead or dying ash and pine trees. Lysle said he has noticed a lot more dead trees, more on the southern side of the Township. He said a lot of them are pine trees, though he is unsure what is causing it. He also mentioned trees that have sustained storm damage as this is something a lot

of neighboring municipalities have been dealing with. Specifically, a heritage tree on Chandler Mill Road was damaged severely over the last two storms and it will be removed for safety.

e. Matt Gordon – Kennett Township Police Department

(www.kennett.pa.us/DocumentCenter/View/4846)

Gordon shared the statistics from June available in the link above. He reminded everyone of the dangers of leaving children and pets in parked vehicles during excessive heat and reminded everyone to not leave their keys in their unlocked vehicles. Lastly, reported on recent training completed by Officer DeLeon.

Discussion

- Leff asked if someone is a victim of fraud if that can be reported. Gordon said yes and explained how it is no longer a battle for jurisdiction. He added that most frauds of professional nature are usually perpetrated by people outside of the United States and they mostly target the elderly.
- Hoffman brought up a recent unemployment compensation card that she did not apply for and was told by Rep William’s office that three out of four unemployment claims are fraudulent right now. She asked how many are being reported verses how many are out there. He said they are out there as one of his own officers also received one that was false.
- Gordon also said another common problem right now is the Felony Lane Gang. He said this group targets parks and gyms and break into cars to grab credit cards to go on quick spending sprees. These are local but also all up and down the east coast. He said it is not bad in Kennett Township, but it does happen.
- Heinrich added the reason Pennsylvania is seeing spikes in the unemployment fraud is the state just rolled out a new electronic process which has removed some of the paper trail that used to exist. She said the State has been helpful with what to watch out for and how to report it. She said one thing to watch out for is if an individual’s identity has been stolen, someone may try to file for unemployment on your behalf.
- Gordon added that around tax time, it is not uncommon for incarcerated criminals to file that they have worked and then collect checks at prison.
- Gordon said that bullies are braver with electronic crimes because no one can see them and spoke about the programs available and older folk’s facilities that help them identify email fraud and other similar schemes.
- Richard Gaw (Chester County Press) asked where the department would be during the National Night Out on August 3rd. Gordon said Officer Simmons will be the community liaison for that event and that the department will be there.

9. Public Comment

There was no public comment.

10. Adjournment

Motion presented by Hoffman to adjourn. Stevens seconded. Motion passed 3-0.

The meeting adjourned at 9:00 p.m.

Respectfully submitted,
Eden R. Ratliff
Township Secretary