



## Board of Supervisors Meeting Minutes

In Person Meeting Via 299 Starr Road Landenberg, PA

September 7, 2022

7:00 p.m.

**Present:** Dr. Richard L. Leff, Chair; Scudder G. Stevens, Vice Chair; Geoffrey Gamble, Esq., Supervisor; Amy Heinrich, Finance & HR Director; Diane Hicks, Planning & Zoning Director; PJ Groff, Public Works Interim Director; Matt Gordon, Chief of Police; Solicitor Sander

**Absent:** Eden R. Ratliff, Township Manager

### 1. Call to Order

Chairman Leff called the meeting to order at 7:00PM

### 2. Pledge of Allegiance

### 3. Embezzlement Recovery Update

There was no update on the Embezzlement Recovery.

### 4. Executive Session Announcements

Solicitor Sander announced that the Board met in Executive Session on August 24, 2022 to discuss matters of personnel, August 31, 2022 to discuss matter of real estate and September 7, 2022 to discuss matters of personnel.

### 5. Meeting Minutes

#### a. August 3, 2022

#### b. August 17, 2022

*Motion to approve the August 3, 2022, and August 17, 2022, Board of Supervisor meeting minutes was made by Gamble and seconded by Stevens. Motion passed 3-0*

### 6. Business Items

#### a. [Consider September 7, 2022, Bill Voucher](#)

*Motion to approve the September 7, 2022 Bill Voucher in the amount of \$452,668.81 and to approve total transfers in the amount of \$210,620.46 was made by Gamble and seconded by Stevens.*

*Amy Heinrich noted there is a line item on the Bill Voucher labeled as "General" which are permits for the Chandler Mill. Motion passed 3-0*

**b. Consider Eagle Systems Escrow No. 4**

*Motion to approve the Eagle Systems Escrow Release No. 4 in the amount of \$97,110.30 as recommended by the Township Engineer was made by Gamble and seconded by Stevens. Motion passed 3-0.*

**c. Consider Smith Property – Waiver requests related to sewer planning module approval**

*Motion to approve the waiver from SALDO Section 206-307.A.(3)(c) to allow for plan signature and recording prior to receipt of PADEP permits for the off-site sewer improvements, conditioned upon the addition of a note on the final plan stating that no building permits will be issued by Kennett Township prior to issuance of all required PADEP permits for the off-site sewer system upgrades was made by Gamble and seconded by Leff.*

*Diane Hicks Director of Planning and Zoning further explained this is waiver request is standard- the developer is present to answer further questions. This property has been on the market for a while- the homeowners and the developer are in an agreement to move forward. The developer has stumbled upon the Kennett Township infrastructure issue. In part what he must do is build an entire Rosedale Sewer Pump Station that has added additional time. At this time the homeowners have financial constraints and would like to sell the property to the developer so he can in turn go about the proper protocols as this has been a project in the making for 5 years.*

*Chairman Leff further questioned as to what this would do? Diane Hicks responded the bank is looking for some approvals by the Township. The developer approached the Township asking for a letter that states we would allow him to record the plan on a successful DEP submission. The developer is looking to bring on an additional developer/partner who would feel more confident in this matter.*

*Solicitor Sander commented that clearing of the site can happen but there will be no physical building of any structures without the proper permits.*

*Vice Chairman Stevens would like additional time to review materials and not jump into something to make it easier for another person without the proper discussion.*

*Mitch Kotler (Developer- 881 Baltimore Pike Chadds Ford, PA) further spoke upon the project and the many roadblocks and issuances that have been 2 years in the making.*

*Solicitor Sander has no issue to expand upon or disagree with anything Mr. Kotler had stated.*

*Mr. Kotler elaborated that once the waiver is approved, they would need to come in to do the recording and developing plan and develop the site. It would take at least 120 days before any clearing would happen once the waiver is approved.*

*Motion passed 2-1.*

**d. Consider Adoption of Ordinance 298 – Non-Uniform Police Pension**

*Solicitor Sander commented there is an issue that needs to be addressed. The newspaper Ad that was run stated the meeting would be held at 801 Burrows Run Road and that there would be a Zoom link provided for a hybrid option. No one knew where the meeting would end up and there was not a link provided for Zoom due to AV constraints. Solicitor Sander's recommendation is to table the motion that is before the Board and put it on the next agenda and run the Ad again with the proper location.*

*Motion to table the adoption of Ordinance 298 pending readvertisement was made by Gamble and seconded by Stevens.*

*Finance Director Amy Heinrich asked the Board if they would like to further discuss the Ordinance? All were in favor to wait until it would be voted upon.*

*Motion passed 3-0*

**e. Consider Route 1-82 Cedarcroft Close Out**

*Finance Director Amy Heinrich explained that the Township has not sent the formal memo they promised. We have had many issues in timeliness in dealing with Traffic Planning and Design. Wyoming gave us the payment requests month ago and we have been holding payment for months waiting for TPD. Unfortunately, the contractor is suffering from issues with the engineer. We've escalated and engaged other people from TPD and still only had a little improvement. It's up to you whether this is sufficient for you to approve.*

- o In terms of East Marlborough, we just must send them a final bill for their piece. We've kept them in the loop regarding the overage.*
- o The state has reimbursed us on a timely basis for the grant funds. I expect it will be the same with this final payment.*

*The Board decided to withhold payment again until a formal memo is received as promised.*

**f. Spar Hill Farm**

*Motion to authorize Kennett Township Staff and Engineer to prepare and present request for proposals (RFP's) for the demolition, remediation, and historic preservation of Spar Hill Farm consistent with the Historic Commission's recommendation and presentation given on August 17<sup>th</sup>, 2022 was made by Gamble and seconded by Stevens.*

*Vice chairman Stevens does not approve the entire motion and believes there is no significance with the second part of the motion.*

*After further discussion Gamble agreed with Vice chairman Stevens.*

*Board voted on the amended motion listed above: Motion passed 3-0*

*Diane Hicks commented that she is the liaison between the Historic Commission and believe that you could do something truly remarkable with the metal silo that represents Kennett Township/Spar Hill.*

**g. Consider Appointment of Linda Dillow to the Historical Commission**

*Motion to approve the appointment of Linda Dillow to the Kennett Township Historical Commission for the unexpired term ending on December 31, 2026 was made by Gamble and seconded by Stevens. Motion passed 3-0*

**h. Consider Appointment of Anne Verplanck to the Planning Commission**

*Motion to approve the appointment of Anne Verplanck as an alternate to the Kennett Township Planning Commission was made by Gamble and seconded by Stevens. Motion passed 3-0*

**I. Consider Resignation of Michael Guttman from the Land Conservancy Advisory Committee**

*Motion to accept the resignation of Michael Guttman from the Kennett Township Land Conservation Advisory Committee was made by Gamble and seconded by Stevens. Motion passed 3-0*

**7. Public Comment**

**Peter Doehring- 5 Nine Gates Rd.**

*A copy of Mr. Doehring's comments have been submitted with the minutes for inclusion.*

**8. Adjournment**

*Motion to adjourn was made by Gamble and seconded by Stevens. Motion passed 3-0. Meeting adjourned at 8:13PM*

Not one inch of the 8000' path currently proposed to parallel Chandler Mill Road as part of the Kennett Greenway can be built without the acquisition or easement of private land. If a single landowner refuses to turn over their land, then the proposed design must be reworked. In a presentation to township supervisors on April 22, the project team indicated that 40% of the necessary ROW coordination had been completed, which would suggest that at least some of these agreements have been reached with the 5 landowners concerned. At the August meeting of the Trails and Sidewalks Committee, Eden refused to confirm whether any of these 5 landowners have agreed to turn over the land needed. As a result, I was compelled to submit a Right to Know request. That request has confirmed that Kennett in fact does not have any signed agreement with any of the 5 landowners.

This fact raises several concerns. First, the details of a "final" design requiring the acquisition or easement of private land was being worked out almost 18 months ago, yet not a single agreement for the acquisition or easement of private land has since been completed. Given how much time has passed, it is likely that at least one landowner will refuse to turn over their land, and we all know of at least one landowner who has made it a mission to protect the family's land. Barring some remarkable, 11th hour reversal, the only way that the current design can be completed is if Kennett moves to take legal actions against landowners, up to and including the seizure of land through eminent domain. This raises serious concerns about the feasibility of the current design. Nonetheless, KTA has sought to lock in commitments by Kennett by moving ahead with tens of thousands of dollars in design and permitting fees, and commitments by Kennett and State funders with an additional \$1.5 million infusion without any formal agreements with any of the landowners in hand.

Second, I think that these events raise serious concerns about what I would characterize as the aggressive - and in this case, misleading - manner in which the Greenway has been marketed to you as supervisors, and to the general public. Those who may be surprised about claims of misleading marketing may be interested to learn that virtually the same scenario has played out once before. Over a 12 to 18 month period in 2018 and 2019, KTA repeatedly insisted on two claims: (1) that an alternative route through protected land was not in violation of the terms of the conservation easement, and (2) that this route was accepted without reservation by the landowner. We knew at the time that the first claim was false, and I have since learned that the second was too. KTA simply refused to listen, wasting thousands of public dollars on this alternative route, and refusing to move ahead with any alternatives for at least 12-18 months.

Finally, I have to anticipate a response commonly offered by KTA when I raise concerns - in this case about what I believe to be aggressive and misleading marketing. They claim that the general public and the Trails and Sidewalks committee has had multiple opportunities to provide input about all possible options, and has been very supportive of the proposed design. The problem here is that this has not been an open public relations campaign to meaningfully engage those with the most at stake, it has been an aggressive marketing campaign to raise as much support as possible from as many people as possible, for the idea of a Greenway. True public engagement requires that the public can weigh all relevant facts and likely outcomes. I can document multiple examples of marketing, when only one side of the story was presented when information that could have raised questions about the feasibility, the cost, the timeline, the environmental impact, or the desirability of other options was buried, spun, withheld, and

sometimes countered with patently false and misleading claims. KTA has marketed a vision for the Greenway, withholding critical information about true costs and likely timelines. I have mapped these out for the western portion on [Openkennett.org](http://Openkennett.org) and project that it will cost \$8.4-\$12M for 2.8 miles, completed between 2030 & 2035, and requiring \$2-\$3M in new local taxes.

The failure to secure a single foot of the additional rights of way needed to complete this design, 15 months after a “final design” was completed, should raise red flags. I urge you to pay attention to them.