

OFFICIAL MINUTES

The Regular Meeting of February 17, 2009 of the Borough of Kennett Square Council was called to order at 6:30 p.m. in the Monroe Nute Room of the Kennett Fire Company No. 1, 301 Dalmatian Street, Kennett Square, Pennsylvania with President David B. Miller in the Chair. Roll Call followed the Pledge of Allegiance. Present were:

President D. Miller
Council Member R. Pesce
Council Member E. Avello, Jr.
Council Member W. Carozzo
Council Member J. Cocks
Council Member J. Darman
Council Member J. Thomas
Manager B. Kucera

EXECUTIVE SESSION - FEBRUARY 9, 2009

President Miller announced that Council held an Executive Session on February 9, 2009. The purpose of this meeting was to discuss the possible acquisition of real estate.

EXECUTIVE SESSION - FEBRUARY 17, 2009

President Miller announced that Council will hold an Executive Session immediately following tonight's Council meeting, February 17, 2009. The purpose of this meeting is to discuss the possible acquisition of real estate and to discuss litigation matters for Civil Action No. 07-3958 filed in United States District Court; Albert J. McCarthy v. Jeffrey S. Darman and the Borough of Kennett Square and Marc D. Jonas, Esquire and Grace M. Deon, Esquire and Richard A. Pesce and Emidio J. Falini and Joseph M. Makowski and David B. Miller and Jerome E. Rhodes and John R. Thomas.

PUBLIC COMMENTS

Ms. Carol Krawczyk, 521 West State Street, expressed her concern of the proposed amendments to restrict parking in the R-2 District. She stated that there are problems with the ordinance adding that it is unfair and does

not address the situation of employee parking. Ms. Krawczyk commented that this type of ordinance starts to drive barriers between people and becomes a way to make the Borough look meaner rather than welcoming.

President Miller thanked Ms. Krawczyk for her comments.

PROPOSED AMENDMENTS for RESIDENTIAL PARKING in the R-2 DISTRICT

President Miller advised that the Public Hearing has not been scheduled for the proposed amendments to Residential Parking in the R-2 District. He added that when the date has been set for the Public Hearing it will be properly advertised.

PUBLIC COMMENTS - continued

Ms. Charla Watson, 523 Magnolia Street, shared her concern for Council trying to use parking regulations to address overcrowding issues and the need for parking in the business district. She recommended that the Borough enforces the laws that are on the books before they implement the amendments. Ms. Watson stated that she wants her Borough building even if the Police building and the current Borough Hall have to be sold.

President Miller thanked Ms. Watson for her comments.

Ms. Susan Myers, 312 Marshall Street, expressed her concern for the need for covered garbage containers. She referred to the Community Guide noting that it states that tight lids are required but are not being enforced. Ms. Myers added that this is a problem all over town. She also expressed her concern that dumpsters are not properly fenced in urged Council to enforce these issues.

President Miller thanked Ms. Myers for her comments.

CONSENT ITEMS

MINUTES of FEBRUARY 2, 2009

President Miller presented the February 2, 2009 minutes for approval.

It was moved by Council Member Thomas and seconded by Council Member Cocks to approve the minutes as presented.

It was moved by Council Member Darman and seconded by Council Member Thomas to amend the minutes under item "Proposed Amendments to Residential Permit Parking" by adding the following sentence to paragraph three (3) on page four (4):

"Council Member Darman requested that legal due diligence be done and that answers to all questions be found as well as clearly analyzing what the exact problem is".

Motion carried unanimously.

BILLS

President Miller presented the bills to be paid February 17, 2009 and the bills that were paid since the last meeting for approval.

It was moved by Council Member Cocks and seconded by Council Member Pesce to approve the bills as presented. Motion carried unanimously.

PROPOSED AMENDMENTS to CHAPTER 11 of the MUNICIPAL CODE MOTOR VEHICLES and TRAFFIC - PARKING METERS APPROVAL to ADVERTISE PUBLIC HEARING

President Miller presented the proposed amendments to Chapter 11 of the Municipal Code regarding the enforcement times for parking meters.

The Manager advised that the amendments would change the enforcement times of the parking meters to Monday through Friday, 9:00 a.m. to 5:00 p.m., with free parking on Saturdays, Sundays and Federal holidays.

It was moved by Council Member Thomas and seconded by Council Member Carozzo to approve the advertisement for the Public Hearing as presented. Motion carried unanimously.

The Public Hearing is scheduled for March 16, 2009.

PROPOSED AMENDMENTS to ZONING ORDINANCE STEEP SLOPES APPROVAL to ADVERTISE PUBLIC HEARING

President Miller presented the proposed amendment to the Zoning Ordinance regarding steep slopes.

The Manager advised that the addition of “man-made” steep slopes pertains only to the TBO Overlay District. The remainder of the amendments pertains to all steep slopes and is a correction to the current language in the Steep Slopes Ordinance.

It was moved by Council Member Thomas and seconded by Council Member Carozzo to approve the advertisement of the Public Hearing as presented. Motion carried unanimously.

The Public Hearing is scheduled for April 6, 2009.

PROPOSED AMENDMENTS to ZONING MAP APPROVAL to ADVERTISE PUBLIC HEARING

President Miller presented the proposed Zoning Map changes along East State Street.

The Manager advised that this would be a continuation of the C-2 Zoning District eastwardly along State Street. The change would be from R-3 to C-2 between South Willow and Race Streets.

It was moved by Council Member Thomas and seconded by Council Member Carozzo to approve the advertisement for the Public Hearing as presented. Motion carried unanimously.

The Public Hearing is scheduled for April 6, 2009.

PUBLIC HEARING AMENDING CHAPTER 11 of the MUNICIPAL CODE MOTOR VEHICLES and TRAFFIC – SOUTH BROAD STREET PARKING

President Miller advised that this Public Hearing is regarding the proposed amendments to Chapter 11 of the Municipal Code of the Borough of Kennett Square, Motor Vehicles and Traffic. The amendments limit parking to two (2) hours, Monday through Friday, 8:00 a.m. to 6:00 p.m. and implement Residential Parking Permits in the 200 and 300 blocks of South Broad Street.

President Miller opened the Public Hearing at 7:08 p.m.

Ms. Susan Myers, Marshall Street, questioned that if parking on South Broad Street is made Permit Parking what will prevent the people from walking one (1) more block by parking on Marshall Street.

President Miller closed the public hearing at 7:10 p.m.

COUNCIL DISCUSSION

Council Member Carozzo stated that he understands what Ms. Myers is saying and a discussion ensued between Council Member Carozzo and Ms. Myers.

The Manager advised that this Public Hearing is about South Broad Street parking. He stated that the Borough understands the issue about parking lots not being utilized noting that there is agreement regarding this. The Manager stated that the Borough will enforce the implementation of these lots.

Council Member Carozzo stated that the Borough Manager is doing a good job and the issue will be resolved.

Council Member Thomas stated that it may have been beneficial to have included regulating parking on Marshall Street with the South Broad Street amendments.

The Manager stated that a solution is to have the people park in the appropriate lots. He is working on this solution.

A discussion ensued regarding the enforcement of the parking lots that are leased to the Franklin Center building.

President Miller suggested that Council give the Manager the time to correct the problem before they consider regulating parking on any other streets

PUBLIC HEARING

AMENDMENTS to CHAPTER 13 of the MUNICIPAL CODE REFUSE and CONDITION of PREMISES – PUBLIC REFUSE RECEPTACLES

President Miller opened the Public Hearing at 7:22 p.m.

There were not comments from the public.

President Miller closed the Public Hearing at 7:24 p.m.

Council Member Darman advised that these amendments will allow the Borough to regulate the use of public refuse receptacles by businesses and residents.

BOARDS and COMMISSIONS

PLANNING COMMISSION

President Miller presented one (1) appointment to the Planning Commission as follows:

Ms. Myra Miller; this is to fill the remainder the term due to Mr. Michael Leventry's resignation. The term will expire January 1, 2010

It was moved by Council Member Cocks and seconded Council Member Thomas to appoint Ms. Miller. Motion carried unanimously.

VACANCY BOARD

President Miller presented the re-appointment to the Vacancy Board as follows:

Mr. Emidio Falini; this one year term expires January 1, 2010.

It was moved by Council Member Darman and seconded Council Member Cocks to re-appoint Mr. Falini as presented. Motion carried unanimously.

SPECIAL EVENT APPLICATION CINCO de MAYO FESTIVAL

President Miller presented the Special Event Application for the Cinco de Mayo Festival.

Mr. Carlos Navarro, 311 Meredith Street, stated that the Cinco de Mayo Festival will be held on May 3, 2009 on West State Street between Union and Meredith Streets. Union Street will remain open for traffic.

It was moved by Council Member Cocks and seconded by Council Member Darman to approve the Special Event Application as presented. Motion carried unanimously.

ORDINANCE NO. 873 AMENDING CHAPTER 11 of the MUNICIPAL CODE MOTOR VEHICLES and TRAFFIC - SOUTH BROAD STREET PARKING

President Miller presented the Ordinance containing the amendments to Chapter 11 of the Municipal Code of the Borough of Kennett Square, Motor Vehicles and Traffic. The Ordinance limits parking to two (2) hours, Monday

through Friday, 8:00 a.m. to 6:00 p.m. and implements Residential Parking Permits in the 200 and 300 blocks of South Broad Street.

It was moved by Council Member Thomas and seconded by Council Member Avello to approve the Ordinance as presented. Motion carried unanimously.

The Ordinance was assigned No. 873

ORDINANCE NO. 874
AMENDING CHAPTER 13 of the MUNICIPAL CODE
CONDITION of PREMISES and REFUSE - PUBLIC REFUSE RECEPTACLES

President Miller presented the Ordinance containing the amendments to Chapter 13 of the Municipal Code of the Borough of Kennett Square, Condition of Premises and Refuse. This Ordinance pertains to the regulation of refuse placed in public receptacles.

It was moved by Council Member Thomas and seconded by Council Member Cocks to approve the Ordinance as presented. Motion carried unanimously.

The Ordinance was assigned No.874

LEEVEVER and O'NEILL
SUB-DIVISION and LAND DEVELOPMENT (SDLD)
EXTENSION of FINANCIAL SECURITY

President Miller presented a request from Mr. David Leever and Mr. Thomas O'Neill requesting an extension for the Financial Security Agreement for the Leever and O'Neill SDLD.

The Manager advised that Mr. Russell Drumheller, the Codes Enforcement Officer, recommends this extension.

It was moved by Council Member Darman and seconded by Council Member Thomas. Motion carried unanimously

KENNETT BUSINESS PARK
SUB-DIVISION and LAND DEVELOPMENT (SDLD)
PRELIMINARY APPROVAL

President Miller presented the Preliminary Plan for Kennett Business Park SDDL for approval.

Mr. Dan Salameda, Advanced GeoServices, gave a brief summary of plan and stated that the applicant is requesting Council to grant a waiver of the cul-de-sac.

Mr. Brendan Burke, MacElree Harvey, was present to answer questions on behalf of his client, Mr. Michael Pia.

The Manager advised that the Planning Commission has approved this Preliminary Plan.

It was moved by Council Member Darman and seconded by Council Member Thomas to grant a waiver of the cul-de-sac requirement and to approve the Preliminary Plan of the Kennett Business Park SDDL as presented contingent upon the following four (4) items:

- 1) The Preliminary Plan is approved by Kennett Township.
- 2) The applicant receives a NPDES Permit for this project.
- 3) The Borough vacates the extensions of Magnolia Street and West Mulberry Street on the west side of South Mill Road.
- 4) The applicant dedicates as public that portion of South Mill Road that abuts said property. Approximately from the intersection of Magnolia Street and South Mill Road to the railroad tracks.

Motion carried unanimously.

OLD BUSINESS

KENNETT TOWNSHIP'S REQUEST for 80 ADDITIONAL SEWER EDU'S

The Manager reported to Council that currently Kennett Township has five (5) years to disperse the sewer EDU's to the end user. If they are not dispersed within this period then the EDU's would revert back to the Borough. He added that the sewer monitoring pits cannot address contamination testing. There are approximately 12 sewer mains coming from Kennett Township. The Manager recommended that reservation fee not be implemented at this time.

Council Member Avello recused himself from any discussion and action on this item stating that his family owned business will be one of the end users to receive a portion of the Kennett Township sewer EDU's .

Council Member Pesce questioned if there is some way to address the contamination testing.

The Manager advised that this could be addressed in the 537 Plan.

A discussion ensued regarding the liability and risks due to discharge.

Council Member Darman stated that this is a concern and recommended presenting this to Mr. Steven Miano, the Borough's environmental solicitor.

President Miller advised that Council will not act on this item this evening. It will be placed as an Action Item on the March 2, 2009 Council Agenda.

NEW BUSINESS

There was no new business

PUBLIC COMMENTS

Ms. Charla Watson, 523 Magnolia Street, stated that she did not fully understand Council's action when they approved Mr. Pia's Kennett Business Park Plan. She commented that the Borough owns Cedar Street to Mill Road and that the Borough owns Mill Road. Ms. Watson stated that "Do Not Enter" signs have already posted on Mill Road and trucks travel on this road all of the time. It will only get worse with this development. Ms. Watson stated that the Borough should not vacate any part of Mulberry and Magnolia Streets. The majority of this development will take place in Kennett Township and the Borough will not receive any money.

Mr. Ron Bowman, 111 South Walnut Street, stated that in light of the Manager working with the businesses to use the parking lots provided, then any additional amendments to parking ordinances be postponed at this time. He noted that parking is not an issue on Kenview Avenue although this street was listed in the newspaper article. Mr. Bowman recommended that the Borough does not impose a hardship on homeowners when parking it is not an issue. He expressed his concern that the Borough will not experience any tax benefit from Kennett Business Park SLDL and that many of the employees of this company live in the Borough.

Mr. Thomas Trendelenburg, 725 Wayne Avenue, expressed his concern regarding the increased truck traffic from Kennett Business Park SDDL without the Borough receiving any tax income.

Mr. Ed Thomas, 825 Taylor Street, commented that this development is 90 percent warehouse and only 10 percent office space. He questioned what the Borough is going to get from the trucks traveling down Mill Road. Mr. Thomas stated that there will be ten (10) times as many trucks traveling down Mill Road when the warehouses are built. He stated that no one from the Franklin Center is parking on Taylor Street and added that no one in his neighborhood wants permit parking. Mr. Thomas also expressed his concern regarding residential overcrowding.

ADJOURNMENT

It was moved by Council Member Darman and seconded by Council Member Thomas to adjourn the meeting at time 8:17 pm. Motion carried unanimously.

Brant Kucera
Borough Manager

Council convened into an Executive Session.