

OFFICIAL MINUTES

The Regular Meeting of December 7, 2009 of Kennett Square Borough Council was called to order at 6:30 p.m. in the Red Clay Room of the Kennett Fire Company No. 1, 423 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
Mayor L. Spencer, Jr.
Manager B. Kucera

PUBLIC COMMENTS

Ms. Charla Watson, 523 Magnolia Street, stated that it is her constitutional privilege to speak at a Council meeting and that it is her right as a citizen of the Borough and an American to be placed on the Council agenda. She read aloud the letter she received from the Borough Manager, dated December 3, 2009 and dispersed copies to Council. Ms. Watson stated that she would be willing to serve on a committee and shared her concern of the one sidedness and that things appear to only happen on the north side of town. She said that we are not going to be divided in this town and told Council to stop judging about things in their own pockets and do things for everyone in the community.

Mr. Linwood Smith, East Fallowfield Township, stated that he is here this evening to speak on behalf of the Coatesville Chapter of the NAACP. He advised that they have received complaints regarding the basketball court issue in Anson B. Nixon Park and the comments made during the November 2, 2009 Council meeting. Mr. Smith noted that the NAACP will be sending a letter regarding this manner. He thanked President Miller for allowing him to speak.

President Miller thanked Mr. Smith for his comments.

Mr. Jackie Hines, owner of 111-113 West State Street, commented that when he first came to the Borough, Anson B. Nixon Park was known as the back field. Soon after it became Anson B. Nixon Park, the basketball courts were removed and he would like the courts to be reinstated.

Ms. Leslie Whiteside, 802 Wayne Avenue, stated that she is disturbed by the issue of the basketball courts and that racist comments should not be allowed during a Council meeting. She told Council that they have an obligation to do something about it. Ms. Whiteside said that there have been prior requests that were honored for citizens to be placed on the agenda so she does not understand why Ms. Watson's request was denied.

Mr. George Germanovich, owner of 700 West Cypress, stated that he does not always agree with Ms. Watson but he did with her regard to her opening statement. He stated that we are in a recession and he thinks it will be a burden on the community to increase taxes. Mr. Germanovich quoted Ronald Reagan saying that government is the problem and stated that he would gladly contribute input during the budget processes in the future. Mr. Germanovich recommended that everyone in the Borough take a pay cut and layoffs be implemented. He told Council that they work for the taxpayers and there are a lot more critical finance interests that need to be addressed.

Mr. Marc Pevar, 606 Ridge Avenue, stated that one year ago Council was told that there would have to be a half (1/2) mil increase but Council elected to raise taxes by one (1) mil. He referred to the results of the last election stating that now there is no one on Council to speak for those less fortunate. Mr. Pevar questioned why year after year the Borough continues benefits for the employees. Many people in the country have experienced the reduction of hours and as we go into the new year, we have to cut expenses. Mr. Pevar stated that the old water tank is still being paid for through the high water and sewer fees. He shared his belief that Council is being insensitive to social and financial interests of the citizens.

BASKETBALL COURT UPDATE ANSON B NIXON PARK

President Miller gave an update of the matter of basketball courts in Anson B. Nixon Park stating that a letter was sent to Kennett Area Park Authority (KAPA) asking them to revisit the basketball court request. As a result of that letter, President Miller held a meeting last week which included the Manager, the Mayor, the Chief of Police, Ms. Claire Finrock of the Kennett Area Park and Recreation Board, Ms. Theresa Bass of the Historic East Linden Project, and Ms. Pam Carter and Mr. Richard Lyon from KAPA.

The Mayor read the press release which was published in today's newspaper reporting that the basketball courts will be reinstated at the Park through a joint effort with the Borough, KAPA, KAPRB and Longwood Rotary.

**PUBLIC HEARING
PROPOSED AMENDMENTS to CHAPTER 4
INTERNATIONAL PROPERTY MAINTENANCE CODE**

President Miller advised that this public hearing is a continuance from November 16, 2009 for the proposed amendments to the Borough of Kennett Square Municipal Code, Chapter 4, Buildings and Plumbing.

President Miller opened the public hearing at 7:07 p.m.

The hearing was conducted with a stenographer and a transcript of this public hearing is available from the Chester County Court Reporters' office for a period of seven years.

President Miller closed the public hearing at 7:18 p.m.

**ORDINANCE NO. 880
PROPOSED AMENDMENTS to CHAPTER 4
PROPERTY MAINTENANCE CODE**

President Miller presented the ordinance amending the Borough of Kennett Square Municipal Code, Chapter 4, Buildings and Plumbing for approval by adopting the International Property Maintenance Code 2003 edition.

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

The Ordinance was assigned number 880.

**PUBLIC HEARING
CHESTER COUNTY COMMUNITY REVITALIZATION PROGRAM (CRP)
GRANT APPLICATION
BIRCH, SOUTH WALNUT and
CREAM STREETS IMPROVEMENTS PROJECT; and
TAYLOR STREET RECONSTRUCTION PROJECT**

The Manager advised that at the last meeting Council adopted a resolution supporting the application for the CRP funding. The County also requires that a public hearing be held as well. The two (2) projects he is proposing to be submitted are the Birch, South Walnut and Cream Streets Improvements Project for \$1,395,333.53 and the Taylor Street Reconstruction Project for \$358,708.00. The Borough's match is 25%.

Council Member Carozzo questioned if we are awarded the grants, do we have the funding for the match.

The Manager stated yes; there is money remaining from the sale of the Yeatman property.

President Miller opened the public hearing at 7:24 p.m.

Mr. Ed Thomas, 825 Taylor Street, stated that he has been working on this thing for Taylor Street for a long time. He stated that fixing the street will help but he is concerned that there is water leak underground. Mr. Thomas does not believe that the residents want street lights.

Mr. George Germanovich questioned where this grant money comes from.

The Manager advised that this grant funding is from the County.

Mr. Germanovich asked why this has to be done now with taxes and water and sewer fees being raised. He recommended that the project be put on hold with the Borough's match being saved for a rainy day. Mr. Germanovich stated that he has had enough of taxation without representation. He questioned why Cypress Street was repaved.

Council Member Thomas stated that it was not done properly the first time and was redone without added expense to the Borough taxpayers.

Mr. Marc Pevar, 606 Ridge Avenue, questioned the large heavy trucks that were run on Taylor Street several years ago and if the sub-contractor paid for the damage. He stated that an adequacy allowed the sub-contractor and the school to get away scot-free. Mr. Pevar stated that Taylor Street needs to be fixed but the Borough should not have to pay for it.

Council Member Carozzo stated that he believes that the trucks were empty when they traveled on Taylor Street.

Council Member Thomas stated that Taylor Street is 60 years old and was never constructed properly.

Mr. Pevar questioned if there is a water leak and questioned why we would pay for a water leak repair that could be the responsibility of school contractors.

Upon the five (5) minute time limit, President Miller asked Mr. Pevar to end his comments.

Ms. Charla Watson, 523 Magnolia Street, stated that everything on the agenda feeds back to the budget. She questioned why we are doing Birch Street. We are in a recession and we should not pave Birch Street for the school or the proposed senior housing. We can no longer do capital projects but Taylor Street needs to be done.

Ms. Watson said that we cannot keep putting sidewalks in however there are no sidewalks on Taylor Street and we should install them.

Ms. Leslie Whiteside questioned what happens if the actual cost of the project is higher than estimated.

The Manager advised that there is a ten percent (10%) clause and the increase would be shared by both the Borough and the County.

President Miller closed the public Hearing at 7:44 p.m.

**CHESTER COUNTY COMMUNITY REVITALIZATION PROGRAM (CRP)
GRANT APPLICATION
TAYLOR STREET RECONSTRUCTION PROJECT**

It was moved by Thomas and Council Member Darman to approve the grant application for the two (2) projects as presented.

Council Member Pesce reclused himself from any discussion or action on this item due to the fact that he is a property owner on Birch Street.

Council Member Darman stated that Birch Street is in atrocious state but if we are not going to do capital projects then we should not do any.

The Manager advised that the deadline to submit the grant is December 11, 2009.

It was moved by Council Member Thomas and seconded by Council Member Carozzo to amend the motion of the grant application to include the Taylor Street Project only.

The Manager advised that the county will not approve the Taylor Street Project if the sidewalks are not included.

Motion carried unanimously.

CONSENT ITEMS

MINUTES of NOVEMBER 23, 2009

President Miller presented the November 23, 2009 minutes for approval.

It was moved by Council Member Cocks and seconded by Council Member Thomas to approve the minutes as presented. Motion carried unanimously. Council Member Darman was not present for the vote.

BILLS

President Miller presented the bills to be paid December 7, 2009 for approval.

It was moved by Council Member Thomas and seconded by Council Member Cocks to approve the bills as presented. Motion carried unanimously. Council Member Darman was not present for the vote.

PROPOSED 2010 BUDGET

The Manager highlighted revisions of the proposed 2010 Budget as follows:

- Cuts and revenue enhancements were made to eliminate the one (1) mil increase.
- The vacant position due to a Police Officer out on medical leave will not be filled.
- Workers Compensation Insurance is lower than anticipated.

Council Member Thomas recommended that senior citizen's receive a discounted rate for solid waste collection.

A discussion ensued regarding the Fee Schedule.

Council Member Thomas questioned the employees' share of health insurance.

The Manager stated ten percent (10%).

Council Member Carozzo stated that the employees should pay their fair share of their health insurance premiums and ten percent (10%) is too low.

There was discussion regarding health insurance premiums.

Council Member Pesce recommended that we also take into consideration salaries in order to have a better view the whole benefits picture.

Council Member Thomas expressed his concern of the sewer debt and noted that raising the sewer fee is just like a tax.

The Manager stated that he was able to eliminate the mil and provided the insurance information Council Member Thomas requested.

President Miller stated that the Manager has given two (2) detailed presentations of the budget. He added that we are in the shape we are because of the past history without any tax and fee increases.

There was discussion regarding overtime and training in the Police Department.

PUBLIC HEARING - 2010 BOROUGH TAX RATE and PROPOSED 2010 BUDGET

President Miller opened the public hearing at 8:52 p.m.

Mr. Marc Pevar, 606 Ridge Avenue, stated the level of thinking he is hearing tonight is that it costs this much to do certain things. He recommended that the Borough be professionally analyzed as to what are the exact goods and services that need to be provided and the most efficient way do so. Mr. Pevar instructed Council to quit subsidizing the parking garage and make the rate what it should be. He stated that the public should not be paying for the old water tank that was demolished and construction of the new one. Mr. Pevar shared his belief of that transfers between funds is illegal. He stated that we have overcrowding in the Borough and limiting trash containers is the place to start. Mr. Pevar asked Council to scheduled workshops.

Mr. Jackie Hines, 111-113 West State Street, questioned if there will be a tax increase. He stated that he has a 14 chair shop and an increase of water and sewer fees could cause him some hardship.

Ms. Leslie Whiteside, 802 Wayne Avenue, questioned the number of salary employees and questioned why there are so many supervisors.

The Manager stated that not all of salary employees in the Borough supervise other employees.

Ms. Whiteside stated that her quarterly water/sewer bill is \$282 and she does not approve of an increase. She said that employee's ten percent (10%) share for health insurance is too low. Ms. Whiteside thanked Council Member Thomas for his tenure on Council.

Ms. Charla Watson stated that she is disappointed that there were no pie charts of the budget this evening. She expressed her concern of the past history to take from the water/sewer account to put in the general fund. She noted that we get minimum services from the Borough now. Ms. Watson said that there has been limited expenditure for winter services and we should have always been saving those funds. She said that Council needs to do what the people need to do and cut expenses in their own household first. Ms. Watson recommended the following should take place: reduce the number of police vehicles, evaluate the public works trucks and no one should be taken vehicles home except the Chief of Police, use auxiliary police officers, do not reimburse for co-pays, reduce the number of road crew immediately, clean sewer lines, stop maintaining the sidewalks in the downtown and sell the parking garage. Ms. Watson questioned why we are in real estate deals with Borough Hall and the District Court and that we are losing money. She stated that we built parking lots when we did not have money. Ms. Watson said that we must not decrease the inspections and noted that we may save money if we went to a ten (10) hour day.

Mr. Don Sloat, 304 Ridge Avenue, expressed his concern of the increase. He questioned why the Borough has not considered a recycling program that extends

paybacks credits to residents. Mr. Sloat stated that he does not think it is fair to pick on health care when you do not include the consideration of wages.

Mr. Michael Snyder, 318 Marshall Street, questioned the increases.

The Manager stated that unfortunately we do not have reserve funds to keep operating the way we do. In the future, we should only be considering inflationary increases.

Mr. Snyder stated that we should not compare ourselves with other boroughs because this is our problem and we are smaller borough. He stated that the increases in the water and sewer and garbage are significant. Mr. Snyder questioned the purchase of water from the Chester Water Authority (CWA).

The Manger advised that we have a contract with CWA through 2012 but he sent a letter to them requesting to lower the daily consumption.

Mr. Snyder questioned the possibility of selling the Borough's water system.

The Manager advised that he and Mr. Joe Scalise continue to research this idea with both Aqua America and CWA.

Council Member Thomas stated that one of the advantages for selling the water system would be an income of a couple of million dollars.

Mr. Snyder questioned if trash collection is currently free why a fee must be implemented.

The Manager stated that the funds to cover this expense come from the general fund. The annual cost for trash collection and disposal is \$300,000 - \$400,000.

Mr. George Germanovich stated that he applauds the taxpayers' comments tonight. He expressed his concern that no one on Council wrote down the suggestions from Ms. Watson. He thanked Council Members Thomas and Carozzo for their genuine concern for the taxpayers. Mr. Germanovich expressed his concern of the low percentage the employees pay towards their health insurance and questioned the percentage of pension contributions made by the employees.

Ms. Kathy Holliday, the Finance Director, advised that non-uniform employees pay three percent (3%) of their base salary and the Borough pays seven percent (7%) for pension contributions.

Mr. Germanovich stated that three (3) million Americans have lost their jobs and everybody has to bear the brunt of it. He questioned what will happen next year when the State raises income taxes. He asked why the Manager has to take direction from Council on the budget and where is his creativity. Mr. Germanovich questioned the number of Borough vehicles and suggested budget meetings be held twice or three times throughout the year.

President Miller closed the Public Hearing at 9:39 p.m.

**2010 FEE SCHEDULE,
2010 BOROUGH TAX RATE and
PROPOSED 2010 BUDGET**

A discussion ensued regarding the proposed 2010 Budget among Council, the Mayor and the Manager.

It was moved by Council Member Thomas and seconded by Council Member Carozzo to table action on the 2010 Budget, the 2010 Fee Schedule Resolution and the 2010 Tax Ordinance until the Council meeting on December 14, 2009. Motioned carried unanimously.

**2010 to 2012 REFUSE/RECYCLING BID AWARD
ALLIED WASTE SERVICES of BRANDYWINE**

President Miller presented the 2010 to 2012 Municipal Waste and Recycling Bid for approval.

The Manager advised that Allied Waste Services of Brandywine was the lowest responsible bidder and recommended that Council approve Option 2, Alternate A - "Cost of collection with contractor billing the municipality and with the contractor providing approved trash container (toter)" and Option 3 - "Cost of collection of one (1) bulk item per dwelling per month as follows:

	<u>OPTION 2, ALTER. A</u>		<u>OPTION 3</u>		
Year 2010	\$220,927.20	+	\$0	=	\$220,927.20
Year 2011	\$227,760.00	+	\$0	=	\$220,927.20
Year 2012	<u>\$234,592.80</u>	+	\$0	=	<u>\$234,592.80</u>
Total	\$683,280.00	+	\$0	=	\$683,280.00

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

**PAYMENT NO. 4
SOUTH STREET PROJECT
DOUG LAMB CONSTRUCTION, INC.**

President Miller presented the application for Payment No. 4 to Doug Lamb Construction, Inc. for the South Street Project.

The Manager advised that Payment No. 4 in the amount of \$8,648.25 is the final payment for the South Street Project. It represents the costs associated with the retainage withheld throughout the previous three (3) payments.

It was moved by Council Member Thomas and seconded by Council Member Carozzo to approve payment as presented. Motion carried unanimously.

**RESOLUTION NO. 10-09
2010 POLICE PENSION CONTRIBUTION RATE**

President Miller presented a Resolution setting the 2010 contribution rate for the Police Pension Fund.

The Manager advised that the contribution rate for 2009 is two and three-quarters percent (2.75 %).

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

The resolution was assigned No. 10-09

**PARKING RELIEF
111 EAST CYPRESS STREET
LGB 120 BROAD STREET LLC**

President Miller presented a request to the off street parking requirements for 111 East Cypress Street from LGB 120 Broad Street LLC for approval.

Mr. Russell Drumheller advised that the applicant seeks relief to the off street parking requirements per Section 23-65 of the Municipal Code. He stated that Section 23-65(5)(D) of the Municipal Code permits Borough Council to waive these off street requirements. Mr. Drumheller recommended that Council approve the relief.

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

**ARCHITECTURAL REVIEW BOARD (ARB) APPLICATION
112 EAST CYPRESS STREET**

President Miller presented the ARB Application for signage at 112 East Cypress Street for approval.

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

RESOLUTION NO. 11-09

DECLARING JANUARY 4, 2010 as MAYOR LEON R. SPENCER, JR. DAY

President Miller presented a resolution honoring Mayor Leon R. Spencer's 11 years of service to the Borough and declaring January 4, 2010 as "Mayor Leon R. Spencer, Jr. Day". He advised that the Longwood Rotary will hold a breakfast in the Mayor's honor at 8 a.m. that day in the Red Clay Room. Tickets are available for purchase at Borough Hall.

It was moved by Council Member Cocks and seconded by Council Member Carozzo to approve resolution as presented.

The Mayor stated that he certainly didn't expect this and the gesture is appreciated.

Motion carried unanimously.

The resolution was assigned No. 11-09

OLD BUSINESS

There was no old business.

NEW BUSINESS

POSADA

Council Member Cocks announced that a Posada will be held on Friday, December 17, 2009 from 6:00 to 8:00 p.m. They will gather at the Kennett Friends Meeting House and will walk through East Linden Street and the center of town ending at The Garage Community and Youth Center.

PUBLIC COMMENTS

Ms. Charla Watson, 523 Magnolia Street, stated that Council is using old time tactics to getting around things. She noted that it was her that asked for the basketball courts at Anson B. Nixon Park. Ms. Watson expressed her disappointment that the Mayor and Ms. Theresa Bass attended the meeting and that they are not able to speak for her and her way of thinking. She said she is tired of the old ways and there is a core on this Council needs to be off.

Ms. Leslie Whiteside shared her disappointed that neither she nor Ms. Watson were included in the meeting with the Park regarding the basketball courts. She stated that the courts are not a racial issue but the newspaper article has made it racial.

Comments ensued from Ms. Watson, Ms. Whiteside, Council Member Darman and the Mayor.

President Miller called order to the meeting and requested that speakers not be interrupted. He reminded the public that there is a five (5) minute limit to public comments and stated that this policy will be strictly enforced.

Mr. Ed Thomas questioned if the sidewalks will be included in the Taylor Street grant application.

The Manager advised that the sidewalks are included in the application. The County would most likely deny the application if the sidewalks are not included in the project.

ADJOURNMENT

It was moved by Council Member Carozzo and seconded by Council Member Thomas to adjourn the meeting at 10:21 p.m. Motion carried unanimously.

Brant Kucera
Borough Manager