

**MINTUES OF THE BOARD OF SUPERVISORS
OF KENNETT TOWNSHIP
Kennett Township
801 Burrows Run Road
Chadds Ford, PA 19317**

May 15, 2019

Stevens called the meeting to order at 7:00 p.m.

Present: Chairman, Scudder G. Stevens
 Vice Chair, Dr. Richard Leff
 Supervisor, Whitney S. Hoffman
 Public Works Director, Roger Lysle
 Chief of Police, Lydell Nolt
 Patrick Hitchens (for Dave Sander), Solicitor

ANNOUNCEMENTS/REPORTS

Township Review of Investigation:

Stevens opened the meeting by reading a prepared opening statement:

Tonight, I am sad to say, we need to begin this meeting by reporting on a disturbing event that took place in our township.

The Board of Supervisors sent a letter to Township residents this past weekend outlining an investigation that is taking place, into a series of unauthorized transactions drawn on Township accounts. I'll read the entire letter in a moment.

When we took office, the Board promised that the government of Kennett Township would be open and transparent. That is why, when we discovered this matter, we quickly informed our constituents of the investigation. The same day we learned of the suspicious transactions - acting on the advice of Kennett Township Police Chief Lydell Nolt and our legal counsel - we turned the matter over to the Chester County District Attorney's Office to investigate to see if laws were violated. This investigation must be absolutely impartial and unbiased. In another effort to make sure transparency is adhered to in this serious matter, we hired independent professionals, including forensic accountants, to investigate.

Chief Nolt and the District Attorney's Office recommend we limit our comments until the investigation is complete in a few months' time. Specifically, we were directed not to speculate on any parts of the investigation, such as the process by which the questionable transactions took place, who might be involved, or our own personal opinions.

All of us would like to know more about what happened. There are however many facts that just aren't clear or completely fleshed out at this point. I believe we'll soon find out what took place and the Supervisors will share all permitted information with you, including what actions will be taken, on a regular basis.

We know you have questions, as do we. Please remember that we can't comment on specifics of the investigation and we won't speculate on any aspect. You also shouldn't speculate. We all know everything is not always as it first appears.

Let me read the letter we sent out this past weekend.

As Supervisors, we have a fiduciary responsibility to protect the Township, its citizens, its employees and every part of our government. We take that responsibility very seriously and we are working to do our duty quickly and in a fair and even-handed way.

We want to assure you that Kennett Township's finances are secure. As of now, the amount of the transactions in questions is expected to be within our policy coverages.

We want to further assure you that all the normal and recommended financial controls and processes were in place and reviewed at appropriate intervals by our auditors.

We will write you again as soon as we know more. We recognize our obligation to keep you fully informed, within the guidelines provided by counsel. We are very confident in the good work being done by law enforcement, our attorneys and the outside experts directing the investigation. We are also very appreciative of the hard work of our Township employees in keeping everything functioning well during this challenging time.

Thank you for your support, understanding and patience. In order to be thorough and accurate, the process simply takes time to be completed. Rest assured, we will continue to diligently pursue every aspect of this matter.

Before addressing your questions, I wanted to publicly thank Rich Leff and Whitney Hoffman for their commitment and competence in jumping into this situation. Their support, time and energy has been invaluable. I want to thank the staff of the Township for making it possible so that the business of the Township could proceed uninterrupted. I also want to thank our police chief for his active oversight and liaison services with the County Detectives and the D A 's office.

Stevens read the May 10, 2019 letter addressed to Kennett Township residents, partners and friends (attached to minutes).

Stevens opened the floor up for questions noting that due to the ongoing investigation there are many details that can not be discussed at this time and apologized in advance. Stevens noted that once the investigations are complete, all details will be released.

Discussion:

Margie Swart asked which bank the funds are held at. Chief Nolt commented that the Township is not at the liberty to disclose that information at this time.

Swart asked who the auditing firm is. Stevens responded, Marcum.

Swart asked what the coverage limit of the Township policy that was mentioned in the letter is. Stevens responded that he can not disclose that information at this time.

Chris Burkett asked what the disposition of the Manager at this point? Is she being considered as someone involved, is she being paid and does that imply something? Burkett asked if the manager is the only Township employee on leave. Stevens replied that the Township Manager is on paid administrative leave but cannot answer beyond that except that she is the only person on leave.

Amy Heinrich, a resident of the Township and finance employee of another Township offered her assistance to the Township during this process and asked the following questions:

Is there any trained finance and accounting staff in the Township? Stevens replied, yes.

Is someone working through policy and procedures, controls and segregation of duties? Stevens replied, yes noting that this is also part of the forensic auditors charge to review these.

Has there been segregation of duties? Stevens replied, yes but cannot comment further at this time.

Are more than one authorized signers? Stevens replied, yes.

Is there official committee? Stevens replied, yes there is a business advisory committee that has not been as active lately but will be re-encouraged moving forward.

Can you tell the total amount of the transaction? Stevens replied, not at this time.

How many years it has been going on? Stevens replied, apologizing that he cannot discuss these details at this time.

Were they executed inside or outside of the building? Stevens replied, apologizing that he cannot discuss these details at this time.

In the meantime, who is managing the day to day activities of the Township? Stevens replied, the Supervisors.

Do any of you have any formal training of accounting? Stevens replied, yes.

Jim Przywitowski asked if any Township has considered appointing outside counsel to represent the Township. Steven and Hoffman replied that the Township has hired a forensic auditor to coordinate the Township side of the investigation parallel to the DA investigation.

Beth Thomas asked what the “appropriate interval” is for auditing. Stevens commented that it is annually.

Beth Thomas asked why there was a delay in sending out the communication. Stevens responded with the timeline of information that was obtained by the Township and that information was disseminated as soon as information was gathered. Stevens noted that the investigation/process has been under active management by the Supervisors since they learned of a possible issue.

Beth Thomas asked to clarify the timeline. Stevens responded that the auditor’s report is expected early Fall.

Lynn Nathan commented that she was amazed that it was a bank that found the discrepancies. Nathan asked more about the check signature policy. Stevens noted that one signature is up to \$2000 and two signatures above.

Sarah Leff asked to clarify that there is actually two separate investigations going on, one led by the District Attorney’s office and the other by a forensic auditor that the Township hired. Stevens’s responded that this is correct.

Margie Swart asked if the Forensic auditing firm is different that the Townships annual auditor. Stevens responded that it is.

Margie Swart asked who the company is that does the annual audit. Stevens responded that it is Barbacane Thorton.

Margie Swart asked how many accounts the Township has. Stevens responded that unfortunately, he can not disclose that at this time.

Margie Swart asked to confirm that the suspicious transaction were from different accounts, Stevens responded yes, it is more than one.

Beth Thomas asked if the Township Manager is going to be on paid leave during the duration of the investigation. Stevens responded yes. Patrick Hitchens responded that employment questions like this should be discussed with Township labor counsel, Scott Blissman.

Amy Heinrich asked if someone is charged by the District Attorney, is it public record? Nolt responded yes, it is.

Richard Gaw of the Chester County Press asked the following questions:

What sources of Township funding will be used to cover the expected legal fees. Stevens replied that they will be covered by Township resources.

How did this leak through the cracks, if the responsibility falls on the supervisors, how could something like this happen? Stevens responded that he can’t answer this without revealing details of the ongoing investigation and commenting would be speculating and could compromise the investigation.

What do you do as Supervisors to restore the trust in local government? Stevens replied that the way the Supervisors have been doing it is by grasping the situation to find out where the problems may have been and put measures in place to ensure they cannot happen in the future. Stevens commented that the board is all about having an open, transparent government.

Chris Burkett commented that he feels that the erosion of trust goes back to last year and the way the tax increase was handled by the board.

Amy Heinrich asked how much is in the reserves of the general fund. Leff commented that there is a total balance of about six million dollars in all Township accounts.

Stevens read the following prepared statement:

In conclusion of this group dialog, let me once again re-iterate the steps that this Board of Supervisors has taken in the face of this unprecedented situation:

1. We told our employees to cooperate with authorities. We did ask them not to discuss the matter in public or to speculate, the same as the DA told us.

2. We have nothing to hide

** We called in the authorities the same day the issue arose*

** We brought in legal counsel immediately to advise us how to run a thorough investigation that was free of conflicts, how to protect the legal rights of our employees, and how to make sure there were no more unauthorized transactions*

** We talked at length with the Chester County District Attorney's Office, the Chester County Detectives, the Kennett Township police and our legal counsel about what to do and what not to do.*

** We interviewed and subsequently hired forensic accountants to begin a thorough investigation, as well as other experts to advise us.*

** We are actively in the process of hiring an interim manager.*

** We immediately locked down and re-configured all our bank accounts and our lines of credit*

** We brought in a CPA firm to serve as the "back office" to oversee our office accounting services.*

** The business of the Township has gone forward without interruption. The proper functioning of the Township as gone forward, business as usual.*

** We sent a letter out to every home and business in the Township. We posted that letter to our website. We mailed it out to everyone on our email lists. You have a copy of the letter.*

** We notified the press at the same time and have talked to every reporter who has called us. You have that press release too.*

** We are right now discussing this matter as the FIRST item on the very first Supervisors meeting since we learned about this.*

** We have tried very hard to be as open and transparent as we possibly can, both with the residents of the Township and with the Press.*

** If anyone has any suggestions for additional things we should do, please see me after the meeting tonight and I will gladly listen.*

Thank you for your attention, your patience and your support!

MINUTES

Hoffman made a motion to adopt the minutes from the April 17, 2019 meeting. Leff seconded the motion.

Motion passes unanimously.

Executive Sessions:

Patrick Hitchens filling in for Dave Sander, Township Solicitor announced that Pursuant to Section 708(b) of the Pennsylvania Sunshine Act, the Board of Supervisors announces that it met in executive session on the following dates to discuss matters of personnel relating to the Township Manager: April 25, April 29, and May 1 through May 15, inclusive.

Township Manager:

Michael O'Brien presented the managers' report:

Clifton Mill Bridge:

It was reported that work on the Rt. 82/Creek Road (Clifton Mill Bridge) has begun and PennDOT expects the work should be completed this summer.

Office Hours Kennett:

Office Hours Kennett is pleased to offer the second of a two-part series on Succession Planning for Business. Following up on April's Business Succession Planning – Financial Perspective, is our May 23rd presentation by the law firm of MacElree Harvey LLC – Business Succession Planning – Legal Perspective.

Community Based Land Stewardship

May 22nd, 7pm Township Meeting Room
Establishing a Meadow Residential Meadow

Presented by Kelly Gill, Xerces Society and US Natural Resources Conservation Service, at the Township Public Meeting room. Native meadows make a great lawn alternative to provide biodiversity and improve water management on residential properties. Get practical advice on establishing and maintaining a meadow in Kennett Township.

Historical Commission-100 years of Garden Splendor

May 16th, 7pm. Township Meeting room.
Colvin Randall, Longwood Gardens P.S. duPont fellow will present.

County Ordinance Review:

The Township continues to work with the Chester County Planning Commission on a comprehensive review of Township Ordinances. Work will be done during the planning Commissions monthly work sessions which are now the first Tuesday of every month at 6:30pm in the Townships public meeting room.

Trails:

The Township has completed the bid process for the refurbishment of the Parish and Pennock Park trails, work should begin in the Spring/Early Summer.

Sustainable Energy Task Force:

The Sustainable Energy task force held their first meeting on May 8th. The Mission of the task force is “To identify and promote cost effective sustainable Energy”. Residents interested in sustainable energy and would like to join this task force to brainstorm and investigate options for the Township and residents are welcome to join. Please contact Michael OBrien in the Township office for details.

Spar Hill Task Force:

The Spar Hill task force held its first meeting on May 13th. The goal of this task force is to “To brainstorm ideas for the future of the Spar Hill Farm property and make recommendations to the Board of Supervisors”. As advertised, this task force is open to all residents, if you would like to join this task force, please contact Michael OBrien in the Township office for details.

Chief of Police Report:

Chief Lydell Nolt presented the Chief of Police Report for the month of April 2019:

The Kennett Township Police Department provided police services to 574 police incidents in the municipality of Kennett during the month of April 2019.

The department completed wave #2 of the 2019 aggressive driving enforcement grant. The officers issued 51 aggressive driving related citations during the focused enforcement details.

The department is pleased to announce that the drug take back event on April 27th was a success. The department collected 47 pounds of unused prescription medication. The department has received inquiries about what the DEA does with the medication after it is collected. As part of the take back program, the DEA collects, accounts for the weight and then the items are incinerated as part of the destruction program.

The department is transitioning from the Uniform Crime Reporting system to report crimes that occur in the township, to the National Incident Base Reporting System. The (NIBRS) system is a more comprehensive system under the (UCR) reporting system. It allows for more detailed crime activity reports, better statistical data, and will assist local, state and federal government with more detailed public safety information. The transition will be completed by late 2019.

The department provided professional devolvement training for the follow officers; Officer Urbany received training related to commercial equipment theft investigations and domestic violence assessment. Officer Juarez received training related to child abuse investigations. The department as a whole was recertified in the use of department issued firearms and Taser deployment.

Officer Simmons was assigned to assist the Kraft Bus Company on a school bus driver safety program event. Officer Simmons evaluated the school bus drivers for knowledge related to traffic laws and observed their driving skills while operating a school bus. This is a yearly event promoted by Kraft to provide better training for its drivers and to promote school bus safety.

The department engaged in 24 community policing events in April 2019. This reaffirms our commitment to community through police and community engagement programs. Have a safe and enjoyable month of May 2019.

Public Works Director Report:

Roger Lysle presented the Public Works Report for the month of April 2019:

Crack sealing and skin patching was done with our co-op and contractor. This is done on the roads with large areas of repair needed. We did five days of this in Kennett Township using co-op help and then we went to West Marlborough Township for two days to help them.

The large dog park was closed and re-seeded. The grass is growing well and we plan to re-open it soon. Thank you for your patience during this time.

Yard waste grinding should take place in the next couple of weeks, weather permitting. Wet weather has put them behind.

Three chipping was done around the township after the storm on the 26th came through. Several large trees on the west Hillendale, Raven, oriole Drive, Woodchuck way and other areas were effected. Power was also lost and generators had to be put on traffic signal at Hillendale and 52.

Sweeping was done on the roads that we skin patched to remove the loose stone.

Bids were open for our in place paving in service seal and will be proposed for acceptance by the Township this evening.

Mowing and trimming was started and takes about two weeks to complete.

Pipework will begin after mowing is complete. Materials are ordered and should be delivered this week. Several roads will be temporary closed during installation.

Stop bars and crosswalks are being painted on dry days throughout the township.

Discussion:

Beth Thomas commented that in the evenings after dark at five points, the traffic light is skipping Kaolin on its rotation. Lysle noted that he will look into this concern.

Kennett Fire Company Report:

Bruce Mitchell, Fire Chief for Kennett Fire Company reported that for the month of April, Kennett Fire Company responded to 22 Fire calls, 4 of which were in the Township. For EMS, there were 47 were in the Township.

Stevens asked Mitchell how many fire calls were false alarms. Mitchell responded that there was one false alarm in the Township and one in the Borough. Discussion regarding false alarms and encouraged everyone with alarm systems have them checked on a regular basis.

Beth Thomas asked for an update on the status of the EMS commission and the possibility of a regional EMS service. Mitchell and Stevens responded that work on finding the best solution for residents of all six areas of the commission is still being evaluated. Stevens presented an overview of the current status of EMS along with the double billing issue that comes along with it.

OLD BUSINESS

N/A

NEW BUSINESS

Appointments

Patrick Hitchens presented the following motions for the Board of Supervisors to consider:

Hoffman made a motion to ratify placing the Township Manager on paid administrative leave and authorizing the Chief of Police to take actions toward that end. Leff seconded the motion. Motion passed unanimously.

Hoffman made a motion to ratify the engagement of the accounting firm of Umbreit, Wileczek & Associates, PC to perform payroll and other financial management services. Leff seconded the motion. Motion passed unanimously.

Hoffman made a motion to authorize the Chairman of the Board of Supervisors to execute an engagement letter with Marcum, LLP for forensic accounting services. Leff seconded the motion.

Discussion:

Hoffman noted that the board had interviewed several firms and this firm seems to have the boards upmost confidence. Stevens noted that at least four firms were interviewed.

Motion passed unanimously.

Hoffman made a motion to ratify the engagement of Carl Francis of Envision Strategic for strategic communication services. Leff seconded the motion.

Discussion:

Beth asked what the services were for. Stevens responded that the services were for addressing the communications side of the investigation.

Motion passes unanimously.

Hoffman made a motion to ratify the establishment of the 3 members of the Board of Supervisors as the exclusive signatories to all Township bank accounts. Leff seconded the motion.

Discussion:

Amy Heinrich asked if this includes access to moving funds, Stevens responded yes. Heinrich asked for clarification on what type of access the accounting firm has access, Stevens noted that they are only advising.

Motion passes unanimously.

Appointment of Collis Townsend as Library Board Member

Stevens asked if there was a motion to appoint Collis Townsend as Kennett Township resident, Library board member.

Hoffman made a motion to appoint Collis Townsend as Kennett Township, Kennett Library board member.

Leff seconded the motion.

Motion carried unanimously.

Pay Bills

Hoffman made a motion to pay the bills for the month per the bill vouchers. Leff seconded the motion. Motion carried unanimously.

256 W. Hillendale Road-Stormwater Management Ordinance Waiver Request

O'Brien presented the stormwater waiver request for 256 W. Hillendale road noting that the waiver has been reviewed and supported by the Township Engineer.

Hoffman made a motion to approve the Stormwater Management Ordinance Waiver request for 256 W. Hillendale Road. Leff seconded the motion.

Discussion:

Amy Heinrich asked what the waiver was for specifically. Stan Corbett, Township engineer responded.

Motion carried unanimously.

Emergency Operations Plan-2019 Revision (Resolution 2019-15)

O'Brien presented the updated Township Emergency Operations plan noting that it is required to be updated every two years by the County. O'Brien noted that there were only minor contact information changes to the plan.

Hoffman made a motion to approve the 2019 Emergency Operations Plan, Resolution 2019-15. Leff seconded the motion.

Motion carried unanimously.

Avello Easement request

Jim Fritch of Regester Associates representing Township resident, Rick Avello came before the Board of Supervisors to request the Township take an easement that is being offered by the Kennett Consolidated School District to give the required site distance requirement to a proposed land development application on his property on Creek road which will add six townhouses. It was noted that this application is currently before the Township Planning Commission.

Leff asked Nolt to comment on the history of accidents in this area. Przywitowski representing the township planning commission noted that the Planning Commission suggested that the operations agreement be placed on the recorded plan.

Nolt commented that he would like to see what the operations agreement would look like.

Fritch commented on the site distance issue and how the development plans would improve the current situation.

The Board of Supervisors all agreed that they are in support of an easement for this area. The Avello attorney will work with the Township Solicitor to proceed with finalizing paperwork.

No official action taken.

Road Maintenance-Bid Award-In place paving and surface treatment

At a meeting held on Thursday, May 2, 2019, the Municipal Cooperative of Southern Chester County accepted bids for Road In-Place Paving and Surface Treatment. The Purchasing Committee of the Cooperative made recommendations as to the lowest acceptable bidder in each category. The following bids were recommended for acceptance:

Asphalt Paving Systems, Inc., P. O. Box 530, Hamorton, NJ 08037

Surface Treatment as follows: 18,009 square yards of Slurry Seal Type I as per 408 Pub Spec Section 482, Single Application @ \$2.82 per square yard.

Total Contract: \$50,785.38

Long's Asphalt, Inc., 856 Scotland Road, Quarryville, PA 17566

Paving In-Place as follows: 26,249 sq.yd. – Super Asphalt 9.5 mm P.G 64-22 wearing course, .0 to .3 ESAL's SRL-H 1 - 1/2" @ 7.20 sq.yd. = \$188,992.80; 5,607 sq.yd. – Milling at 2" depth @1.80 sq.yd = \$10,092.60; 678 tons – Super-pave Asphalt Mix Design, 9.5 mm P.G. 64-22, Scratch or leveling@ 1" course .0 to .3 million ESAL's SRL-H. Depth varies - \$80.65 per ton = \$54,680.70; 5,534 sq.yd. – Mill and Fill Base Repair Milling 5" depth x 4' width. Fill with super pave Asphalt mixture design HMA Base Course PG 64-22, .0 to .3 million ESAL's, 25 mm mix 5 inch depth seal all joints and tack coat with PG 64-22 - \$25.00 sq.ft. = \$138,350.00; 2,181 Ton –Super-Pave Asphalt Mix Design, 19 mm P.G. 64 -22, Scratch or leveling @ 2.5" course .0 to .3 million ESAL's SRL-H. Depth varies, \$66.50 per ton = \$145,036.50; 5,607 sq. yd. – Geopave Fabric - \$2.60 sq.yd. = \$12,682.80.

Total Contract: \$549,835.40

Leff made a motion to accept the Road Maintenance-Bid Award for in place paving to Long's Asphalt in the amount of \$549,835.40. Hoffman seconded the motion. Motion carried unanimously.

Leff made a motion to accept the Road Maintenance-Bid Award for surface treatment to Asphalt Paving Systems in the amount of \$50,785.38. Hoffman seconded the motion.

Discussion:

Amy Heinrich asked which roads are proposed to be paved. Lysle responded with the following list:

West Hillendale, Chandler Mill, Elmwood Drive, Oak Lane, Normady dr. and Montbard. Sealing will be completed on Hannum road, Willow Glen drive, Willow Glen Circle, Huntsman Path, Deerfield lane, Patrice lane, Burrows Mill and Mill Race.

Motion carried unanimously.

Ewart/Chandler Mill road Traffic Study request

Due to safety concerns, Nolt requested that the Board of Supervisors authorize a traffic study for the cost of \$6800 be completed by the Township Engineer, AECOM for Ewart/Chandler Mill roads to see if a speed limit reduction is warranted.

Nolt reported that there is an increase of traffic incidents at this intersection and the hope would be the traffic study would support the installation of a three way stop sign and decrease the speed limit to 25 mph.

Hoffman made a motion to authorize AECOM to perform a traffic study for Ewart/Chandler Mill Road for the cost of \$6800. Leff seconded the motion.

Motion carried unanimously.

Grant Submission-Greenways, Trails and Recreation Program-New Garden Corridor

O'Brien asked the Supervisors for a motion to authorize the submission of a Greenways, Trails and Recreation program grant application for the New Garden corridor portion of the Kennett Greenway via proposed Resolution 2019-16 noting

that the grant would be for an award up to \$250k and the Township would be required to make an 18% match of the total project cost estimated to be \$305,149.

Hoffman made a motion to authorize Kennett Township to submit a grant for the Greenways, Trails and Recreation program for the New Garden Corridor (Resolution 2019-16). Leff seconded the motion.

Discussion:

Discussion regarding the location of the trail ensued.

Motion carried unanimously.

PUBLIC COMMENT

None

ADJOURNMENT

Hoffman made motion to adjourn. Leff seconded the motion.

Motion carried unanimously.

The meeting adjourned at 9:23 p.m.

Respectfully submitted,
Michael O'Brien
Recording Secretary