

Board of Supervisors Minutes

April 6, 2022 | 7:00 p.m. | Hybrid Meeting Via 801 Burrows Run Road & Zoom

Present: Dr. Richard L. Leff, Chairman; Scudder G. Stevens, Vice Chair; Geoffrey Gamble, Esq., Supervisor; Eden R. Ratliff, Township Manager; Amy Heinrich, Finance & HR Director; Diane Hicks, Planning & Zoning Director; Matt Gordon, Chief of Police; Dave Sander, Solicitor

1. Call to Order

2. Pledge of Allegiance

3. Embezzlement Recovery Update

There were no updates to provide.

4. Executive Session Announcements

The Board of Supervisors met in Executive Sessions to discuss matters of Personnel on March 30, April 1, April 2, April 3, April 5, and April 6, 2022.

5. Meeting Minutes

a. January 19, 2022

www.kennett.pa.us/DocumentCenter/View/5459

Motion to adopt the January 19, 2022 Board of Supervisor meeting minutes was made by Gamble. Leff seconded. Motion passed 3-0.

Stevens commented that the Supervisors have chosen to follow a more traditional corporate-style format of minute taking verses the more verbatim minutes of the recent past, explaining how public comments will be recorded.

6. Blank Rome Ethics Report/Review

www.kennett.pa.us/DocumentCenter/View/5474

Motion to accept the Pennsylvania Public Official and Employee Ethics Act/Review of Potential Conflict of Interest from Blank Rome, dated April 1, 2022 was made by Gamble. Leff seconded. Motion passed 3-0.

The report and review presented by Joe Poluka and Larry Beaser of Blank Rome, including comments from the Supervisors, can be downloaded from: <https://jumpshare.com/v/CHn7EpWoB3xBurx8rzyi> and begins at 5:00.

Public Comment: Richard Gaw of the Chester County Press asked what has been paid to Blank Rome for this investigation. Ratliff said through February, the Township has spent \$127,000.

Peter Doehring commented the following, which he wanted presented verbatim: "I am going to summarize what already has been posted, or what soon will be posted by the end of the week at openkennett.org. So we've been presented with a report that now we learn will probably have cost over \$100,000, but which really reveals few new relevant facts not already revealed, referenced, or sought by [openkennett](http://openkennett.org), and because of the scope chosen, comes to a foregone conclusion. So how? Instead of looking more broadly at how Kennett responds to the ethical and other concerns raised by its citizens, it focuses on the very same question already answered by the Ethics Commission using the same standards. Only one type of evidence could have lead to a different conclusion than that reached by the established experts in such matters, the Ethics Commission, and that evidence could have been found in a matter of hours and I outline that at openkennet.org. So instead, we're left hundreds of thousands poorer with a report that treads virtually the same ground as the Ethics Commission, and that, to no ones surprise, reached virtually the same conclusion as the established experts in this area. I was nonetheless very surprised to find that the report makes

absolutely no recommendations about what we might do next time to prevent ethical missteps or to respond when ethical concerns are raised. The report would lead us to take comfort in knowing that one of our employees broke no laws. And I have to ask, what Township celebrates the fact that its employees did not break any laws. Personally, I'd like to aspire to a higher standard. Kennett needs employees to do far more than not violate ethics laws. It needs employees whose integrity is beyond question. So I agree with recommendations, which I believe Geoff and Scudder, you made, that we need standards of conduct desperately. And on openkennett I outline how the process of establishing such standards of conduct could begin tomorrow and could draw together Township leaders, employees and residents in a way that restores trust in our public institution. So I have a question – unless somebody wants to ask me about that. This is a question for our Blank Rome team. There are a number of questions raised in the original ethics complaint about possible conflicts of interest, and your report covers the ground that the Ethics Commission covered with respect to whether there are conflicts arising from Eden and his family's role as volunteers and conflicts arising from his role in advising and providing input into the Fire and EMS Commission. But, I do not see – I see little in the report that addresses the conflict of interest that exist with Eden continuing to advise Kennett Township with respect to any issue surrounding fire and EMS concerns since his wife secured employment at Longwood Fire. I would note that the advisory opinion that is cited also sidesteps that conflict of interest which I believe is probably the most important one. So again, in summary, there is a conflict of interest in terms of, I believe in terms of Eden involved in any matter whatsoever in decisions regarding fire and EMS with respect to the Township, not the Commission. And my opens records request has failed to yield any information, any record that indicates that Eden has since recused himself from advising Kennett Township in this matter.”

Poluka corrected assumptions that were embedded in Doehring's comments and explained that Blank Rome was hired because Doehring and a few others had concerns. He went on to explain what they were hired to do, which did not include bringing recommendations. Stevens and Beaser discussed Ratliff's advising the Township Board and how the Commission makes decisions on Fire and EMS. Ratliff spoke in support of Gabrielle, his wife.

Public Comment: Whitney Hoffman shared her support for Ratliff, thanked he and Gabrielle for their service to the community, and hopes this will end the Township chasing down rabbit holes at great expense to the taxpayers based on rumors. Michael Guttman asked if Beaser said there was a weak connection between the decisions Ratliff reached and the financial decisions made by the Commission. Beaser said that was not correct and explained why. Guttman and Beaser continued to discuss what the issue was Blank Rome was hired to look at and Guttman expressed his thoughts on the weak Ethics Act and does not feel there is an answer to why we are having these kinds of ethics discussions are being had. Stevens and Beaser quoted footnote one of the report as it pertained to Guttman's comments. Poluka again stated why Blank Rome was hired, that Ratliff does not have any authority to make decisions, and that Guttman's comments had assertions that are not relevant to what Blank Rome was charged to do.

7. Public Hearing

a. Ordinance 293 – TND Guideline Amendments

www.kennett.pa.us/DocumentCenter/View/5460

Motion to open a public hearing regarding proposed Ordinance 293, amending the Kennett Township Subdivision and Land Development Ordinance to adopt a general manual of written and graphic design guidelines for Traditional Neighborhood Development infill uses was made by Gamble and seconded by Leff. Motion passed 3-0.

Sander and Hicks provided background on this ordinance and the next ordinance. Stevens and Hicks discussed the history of the Parkside plan and the difference between the Zoning Code and the Subdivision Code. Gamble commented on the prescriptive nature of the Ordinance and he and Hicks discussed ways to prevent misusing this ordinance.

Motion to close the public hearing regarding proposed Ordinance 293 was made by Gamble and seconded by Leff. Motion passed 3-0.

Motion to enact Ordinance 293, amending the Kennett Township Subdivision and Land Development Ordinance to adopt a general manual of written and graphic design guidelines for Traditional Neighborhood Development infill uses; repealing all inconsistent ordinances or parts thereof; providing a severability clause; and providing an effective date of April 11, 2022 was made by Gamble and seconded by Leff. Motion passed 3-0.

b. Ordinance 294 – Commercial District Amendments

www.kennett.pa.us/DocumentCenter/View/5461)

Motion to open a public hearing regarding proposed Ordinance 294, amending the Kennett Township Zoning Ordinance to revise the provisions governing the C-Commercial District to include provisions for a range of commercial and mixed-uses, including Traditional Neighborhood Development (TND) was made by Gamble and seconded by Leff. Motion passed 3-0.

Motion to close the public hearing regarding proposed Ordinance 294 was made by Gamble and seconded by Leff. Motion passed 3-0.

Motion to enact Ordinance 294, amending the Kennett Township Zoning Ordinance to revise the provisions governing the C-Commercial District to include provisions for a range of commercial and mixed-uses, including Traditional Neighborhood Development (TND); repealing all inconsistent ordinances or parts thereof; providing a severability clause; and providing an effective date of April 11, 2022 was made by Gamble and seconded by Leff. Motion passed 3-0.

8. Business Items

a. Consider April 6, 2022 Bill Voucher

www.kennett.pa.us/DocumentCenter/View/5462)

Motion to approve the April 6, 2022 Bill Voucher in the amount of \$393,254.97 and to approve total transfers in the amount of \$34,469.60 was made by Gamble and seconded by Leff. Motion amended to correct the total transfers amount to \$35,469.60 by Gamble and seconded by Leff. Motion passed 3-0.

Public Comment: Peter Doehring asked about the charges from Blank Rome to date as they appear on the Bill Voucher, if the Township could make it clear on the Bill Voucher the work from Blank Rome associated with the report, and if the Township has received bills for the public relations consultants and if they too can be differentiated on the Bill Vouchers. Heinrich and Ratliff addressed these questions.

b. Consider ARLE Grant Updates

www.kennett.pa.us/DocumentCenter/View/5493)

Motion to approve the change orders for the new intersection at Route 1, Route 82 and Cedarcroft for a total of \$9,296 was made by Gamble and seconded Leff. Motion passed 3-0.

Leff asked if this would be split with East Marlborough and Heinrich said yes.

Motion to approve pay applications 5 & 6 and a \$40 correction totaling \$94,518.39 for Wyoming Electric and Signal, Inc for construction of the Route 1, Route 82 and Cedarcroft intersection, in line with approval from the project engineers, Traffic Planning & Design was made by Gamble and seconded by Leff. Motion passed 3-0.

c. Consider Enterprise Rent-A-Car Escrow Release No. 6 – Final Release

www.kennett.pa.us/DocumentCenter/View/5463)

Motion to approve Escrow Release No. 6 (Final Release) for Enterprise Rent-A-Car in the amount of \$66,185.15 was made by Gamble and seconded by Leff. Motion passed 3-0.

Stevens noted the AECOM letter recommending the release.

d. Consider Pat's Pizza Escrow Release 1 & 2

www.kennett.pa.us/DocumentCenter/View/5464)

Motion to approve Escrow Release No. 1 and No. 2 (Final Release) for Pat's Pizza in the amounts of \$438,041.25 and \$49,304.13 respectively was made by Gamble and seconded by Leff. Motion passed 3-0.

Stevens again noted the AECOM letter recommending the release. Heinrich noted that this is for the Naked Olive, but all documentation started as Pat's Pizza and continued as such.

e. Consider Public Works Garage Roof Bid

www.kennett.pa.us/DocumentCenter/View/5465)

Motion to authorize the Township Manager to execute the agreement for the replacement of the roof at the Public Works Garage in the amount of \$87,243.00 to Bachman's Roofing, Building & Remodeling, Inc. was made by Gamble and seconded by Leff. Motion passed 3-0.

The Supervisors and Public Works Foreman Groff discussed the timeline of the project and materials being used.

f. Consider Resolution 2022-9 – Committee Chairs

www.kennett.pa.us/DocumentCenter/View/5466

Motion to adopt Resolution 2022-9 concerning Township Committee Chair appointments was made by Gamble and seconded by Stevens. Motion to table this Resolution for two weeks in order to produce updated drafts allowing for an exception if no resident chooses to serve as chair is found was made by Gamble. Leff seconded. Motion passed 2-1 with Stevens dissenting.

Stevens explained his policy concern of not having a resident chair a committee. Leff questioned the timing of Steven's concern and they discussed the recent resignation of Lars Farmer, former Chair of the Historical Commission. Leff shared an email from Kennett Township resident and member of the Planning Commission and Trails and Sidewalks Committee that is attached to these minutes. Leff asked what the plans are for the Historical Commission and asked Gamble, considering his opinion that Township committees handcuff each other, how adding another rule would be acceptable. Gamble clarified his position.

Public Comment: Whitney Hoffman asked why the Supervisors want to take the autonomy away from the Committees in deciding who is best to chair.

Richard Gaw, Chester County Press, asked Stevens why now, after 10 years of being a Supervisor.

Diane McGovern, member of both the Historical Commission and the Trails and Sidewalks Committee (TSC), shared her support of both groups and chairs, said if Norland, who does 95% of the work, is not the chair of TSC someone will have to find a lot of time to do what she does, but feels it may be best if it is a Township resident who would have the Township's best interest at heart rather than that of their employer.

Peter Doehring agreed that chairs should be residents, saying that it should be someone who has stake in the Township and who has no other conflicting interests. He added that he could imagine a situation in which the Committee to appoint someone who is not a resident if no one else steps up or if the Committee feels they are the best person for chair.

Pat Muller said there should be latitude for expertise for some of the more technical committees and a unilateral decision like this hamstrings that. She said that while she agrees in principal that it makes sense, she hopes an exception can be written in to allow for expertise.

Mary Kate Gaver shared her concerns over this proposed change that she feels is premature and not well thought out, saying that it is disrespectful to the committees to not allow them to select their chair. In addition, she said the Township should be focused on welcoming a wider variety of volunteers.

Karen Marshall asked about the difference between committee and commission, which Sander explained, and said it is unusual for non-residents to be chair.

Michael Guttman shared his support for this resolution and detailed his concerns with current TSC structure, including the current chair.

Christina Norland, Chair of the TSC, offered to explain her company and position to anyone who wanted to meet about it in efforts to correct some of the incorrect information shared earlier. She pointed to the work by others on the TSC and said that she does not feel she does 95% of the work. She shared her appreciation for the opportunity to be chair and would be happy to serve as long as the Committee and/or Board decides she can, but said she defers to the Supervisors for this resolution.

John Wilkens feels this important topic should not be decided tonight but made a part of the more in depth study of all committee structures in the near future.

g. Consider R&B Proposal for Spar Hill

www.kennett.pa.us/DocumentCenter/View/5491

Motion to authorize the Township Manager to accept the proposal from Restoration Carpentry, Inc. in the amount of \$6,500 to develop scopes of work and cost estimates for the stabilization of specified structures at Spar Hill was made by Gamble and seconded by Leff. Motion passed 3-0.

Public Comment: Peter Doehring offered that a company from Lancaster County called Barnyard Boys who would be willing to come to Spar Hill and take down any buildings free of charge that they can repurpose the materials from.

9. Public Comment

Pat Muller noted that those complaining about the number of ethics complaints are the same ones submitting them and she asked why, what do they have to gain from this. She went on to applaud Ratliff for his work as Township Manager. She said issues of Ratliff's conflicts of interests have been asked and answered twice and have proved to be a non-issue. She asked those who may be plotting another round of attacks on Ratliff to put it aside and move on for the good of the community.

AJ McCarthy, Chief of Longwood Fire Company, shared prepared comments attached to these minutes regarding the Blank Rome report.

Michael Guttman commented: "I want to thank the unexpected remarks from the Fire Chief. I want to remind the Fire Chief that citizens of this Township have a right to ask questions about the actions, behavior, and outcomes of those actions and behaviors as tax payers and we have a right under the PA Ethics Law – the same Ethics Law that you're now citing – to file a complaint and to pursue a complaint. We have a right to inform the members of the community of that and I will point that we had nothing to do with the decision by the Board of Supervisors to investigate this matter. They investigated this matter because the points that we brought up were serious enough and resonated enough for them to take that action. So that's fine, and I understand your need to defend your organization, but I defend my right as a tax payer and as a resident of KT to question our public officials and to question their relationships with our vendors and other matters. So, with that unexpected thing aside, I want to make another comment about the Blank Rome report. I think there was a mischaracterization by Blank Rome of the Township Manager's authority and its potential abuse. In particular, BR correctly stated that our manager does not have voting power on the Board of Supervisors, as such does not make any final decisions and made none about the EMS reorganization. However, I want to make clear that that doesn't change the fact that the PA Ethics Law does not exclude Township employees for this reason as it is clear that they, and particularly Township Managers, do have considerable influence on the information and alternatives that are presented to the Supervisors and the public and for that reason are covered under the Ethics Law. So simply stating that our Manager was not the final decision maker doesn't exclude them from this Law, and particularly in this case, where our Manager clearly had considerable influence on the decision making process. Moreover, I want to state, and this may also serve as some feedback to Mr. McCarthy, that even a brief review of the ethics ordinances and handbooks of other PA Townships, including those in Chester County such as Tredyffrin, West Goshen, Caln, West Whiteland and others, indicates that at least some of the actions or inactions of our Township Manager during the EMS reorganization would likely be a violation of the rules established by those Townships. Now, Blank Rome chose not to review any of those statutes because of course they didn't apply to us. Why don't they apply to us? Because we don't have such a statute. It's hard to escape, however, the conclusion that if we had such a statute, our Manager's questionable behaviors would be regarded as unethical or at least inappropriate. Therefore, I think that the real issue here is not beating down the whistleblowers, but having the Supervisors provide reasonable ethical guidelines at the Township level that would strengthen the very weak coverage of the State-level Ethics Act. There's a reason other Townships have those provisions because the State's Ethic Act is very weak in this regard. I believe this needs to be corrected as soon as possible not only to hold our employees accountable, but also to avoid situations exactly like the one we just experienced where incomplete guidelines or ethical behavior create public concerns for certain actions and end up, as in this case, incurring excessive legal and public relations costs."

Peter Doehring said he stands behind all of their claims, does not see this as an attack on Ratliff or Longwood Fire Company, and spoke about his experiences as a former public school leader. He then offered suggestions for how to put this matter behind us by focusing energies on discussing the kinds of behaviors expected from our colleagues, Supervisors, and public employees.

10. Adjournment

Motion to adjourn was made by Gamble and seconded by Leff. Motion passed 3-0.

The meeting adjourned at 10:06 p.m.

Respectfully submitted,
Eden R. Ratliff
Township Secretary

Gretchen Porterfield

From: Richard Leff
Sent: Friday, May 6, 2022 5:00 PM
To: Gretchen Porterfield
Subject: FW: email Rudy to BoS regarding Committee Chairs

Forwarded per your request for the minutes:

On Apr 5, 2022, at 5:32 PM, Rudy Karkosak <rkarkosak@kcsd.org> wrote:

Good Evening Gentlemen,

I attended the meeting of the Trails and Sidewalk Committee this afternoon and was informed that there is a resolution for consideration by the Supervisors to create a new policy that committee chairs must be a resident of Kennett Township. While this makes sense that any committee concerning Kennett Township should have participation from our residents, I am concerned that this resolution is targeted to a specific committee. I am unable to attend tomorrow night's meeting but I wanted to express my concerns.

As a member of the KT Planning Commission, I was asked to serve on this committee when it was established in 2014. At that time, the Chairman was appointed by the Supervisors. That Chairman was reelected by the committee for many more years. There was progress but it seemed to be overtaken by issues beyond our scope.

Christina Norland became a member of the committee years ago and was unanimously elected as our Chairperson. She has been extraordinary in leading our efforts, creating an amicable relationship with the TLC, and following up on the complicated grants and projects that we hope will become a benefit to Kennett Township. We have progressed further in the past three years than we did for the previous time. We are so close to completing some major projects that I am concerned that we will revert to past inaction. Unfortunately, Christina does not live in our township so will be unable to continue to lead the group if this resolution is passed. Her value as the leader of this committee should be continued.

Please reconsider this resolution. Even though Christina is not a township resident, she has improving trails in Kennett Township in her heart.

Thank you for considering this request.

Rudy

Good evening, my name is A.J. McCarthy and I'm the Fire Chief for Longwood Fire Company which is in Kennett Township on East Baltimore Pike. We celebrated our 100th Anniversary in 2021 and will celebrate in-person at the end of this month. That is 100 years of service to Kennett Township and the surrounding community.

I am pleased that Kennett Township has concluded their independent investigation into the allegation that Longwood Fire Company and Township Manager, Eden Ratliff and I, had engaged in unethical and inappropriate actions for the advancement of Longwood Fire Company and the hiring of Gabby Ratliff, a total vindication that all claims are unfounded. We have fully cooperated with your investigation, which included releasing internal hiring practices, personal employment information and other discussion topics that simply put – you aren't entitled to. That won't happen again. We also refrained from taking a public position on this topic to allow your process to be completed without any interference.

Let's be clear about this topic. This isn't about a concerned citizen seeking to bring to light impropriety. This was an outright and coordinated attack on your employee, our organization, and its hardworking membership. There was no consideration from any party involved, including the township, on the negative effects this would and did have on a 100-year-old non-profit serving your residents. This shadow government of Joe Duffy, Jeff Yetter, Michael Guttman and Peter Doehring fabricated lies because the new administration started doing things the right way – not the good ole boy way. Political fliers were distributed to our residents, a propaganda website published, and conversations with other public leaders all with a singular goal of pushing false narratives to damage good people.

Joe Duffy, Jeff Yetter, Michael Guttman, and Peter Doehring conspired to submit a complaint to the Commonwealth. Even after admitting that it was pure speculation and not based on a single piece of evidence – a complaint was submitted. That complaint was published and circulated, the topic of discussion at multiple public meetings. I'm curious how the President of our library Board of Trustees would feel if his non-profit organization was attacked under a lie.

Running a non-profit fire company is a complex, expensive and critical part of our society, something almost all the people listed in the report have no education, knowledge or experience doing. In a day where the volunteers are a dying breed, with only 10% of what was once a 300,000+ force in PA, our people were attacked for doing what they signed up to do – protect you at all costs, even if that means

sacrificing their life for a person they've never met. Please find me another type of non-profit that carries such responsibility.

Eden has a family, the collateral damage to the cheap politics that is allowed to carry on. For once in this lie, lets learn about the volunteers and employees of our company who were attacked. Zach is in his early 20's and enjoys providing EMS to our residents. He is just beginning is journey into the public safety world, but I'm confident he will be successful.

Now I will discuss someone who has been continuously referred to as "Eden's wife" like she is some immaterial object used for personal gain. Her name is Gabby. She is extremely intelligent and educated. Currently working on her Master's Degree in Public Administration, she provides the depth and knowledge that Longwood Fire Company needs to continue our mission, providing the superior service you have come to expect, demand, and at times take for granted. She has a significant background in Emergency Management, something that is a true asset to all 6 municipalities we serve. Her position is so much more involved than "secretarial work" it's insulting. She is an everyday part my administrative team. She is a tremendous asset to our fire company and if we had to make this decision tomorrow- it would be the same. She did not deserve the implication that she was nothing more than a pawn on the board or the stress the came along with it. Those responsible for that should be ashamed.

In closing, I have a responsibility to protect our organization and all its members. They don't sign up to be political targets or campaign slogans. They simply want to help their neighbor. If you feel the need to attack your protectors, you can continue to come at me. Both of my professional careers were focused on mitigating dangerous people and situations. I'm not afraid of keyboard warriors or the men in the shadows. But you also have a responsibility to protect our organization. We are your fire company and your community members. We sacrifice more than the average person protecting your citizens every second of the day.

You also have a responsibility to your staff. Look at their faces. This has taken a toll on them. You're rebuilding a township after one of the biggest violations of trust experienced in our lifetime. They deserve an environment where they can prosper, not ridiculed and beaten down for doing their jobs. As leaders, our responsibility is to look out for our people, that includes their wellbeing.