

December 14, 2020 Town Council Meeting

(held by Zoom Video Conferencing)

- Approved the Town Meeting Minutes of November 9, 2020.
- The Council concurred to send an email to the Planning Board requesting that Site Plan Amendment No. 820190080A, which would center the proposed lay-by lane in front of Knowles Manor Senior Living (3906/3910 Knowles Avenue), be removed from the December 17, 2020 Consent Agenda to allow further public discussion.
- The Council Approved endorsing a joint letter by municipalities within Montgomery County requesting that the Maryland State Legislature adopt legislation pertaining to Police Reform, to include the following: Repeal in full the Law Enforcement Officer's Bill of Rights; Reform the Public Information Act to allow disclosure over all complaints of police misconduct; and Enact a statewide use of force policy that prohibits officers from using force unless it is absolutely necessary and allowing both criminal penalties and civil remedies. The Council will include a transmittal letter acknowledging the House Workgroup's twelve recommendations to Address Police Accountability in Maryland, along with recognizing the Montgomery County Police Department's (MPD) professionalism and training, in an effort to bring MPD's Best Practices into statewide Police Reform.
- Introduced Charter Resolution No. CR-01-2020 - Introduction of a Charter Resolution of the Mayor and Council of the Town of Kensington Amending Article VII, "Registration, Nominations and Election", Section 703, "Removal", Section 704, "Duties", Section 705, "Notice of Elections", Section 706, "Appeal of the Actions of the Board of Supervisors of Elections", Section 707, "Registration", Section 708, "Nominations", Section 709, "Election of the Mayor and the Council Members", Section 710, "Conduct of Elections", and Section 712, "Vote Count", to make provisions for resolving a Tie Vote, remove an invalid provision with respect to eliminating Voters from the Supplemental List, provide that no Election will be held and the qualified Candidates will be Declared Elected by the Supervisors of Elections if the number of qualified Candidates is not more than the number of seats to be filled, change how Notice of Elections is given, to allow for Publication in the Town Journal and posting to the Town's website, any Town Listserv, and at Town Hall, limit Appeals of Supervisors of Elections decisions to Candidates and other qualified voters and set a time limit, extend the deadline to qualify as a Candidate to the third Monday in May in the event that no Candidate has timely filed for an office, clarify that qualifications for office are determined at the time of filing of the Certificate of Nomination, allow the Council by Resolution in an Emergency to postpone an Election until such time as it can be safely held, and to make other changes, allow the Council by Resolution to Authorize vote by mail, and allow placement of drop boxes for receipt of ballots. The Public Hearing will be held on Monday, January 11, 2021, 7:00 pm.
- Introduced Ordinance No. O-03-2020 – Introduction of an Ordinance to Amend Chapter VIII, "Health and Environmental Regulations", by Enacting Article 9, "Pesticides", to incorporate Chapter 33B, of the Montgomery County Code entitled "Pesticides", which contains various provisions to protect the health of the public and to make conforming changes. The Public Hearing will be held on Monday, January 11, 2021, 7:00 pm.

Meeting December 14, 2020, 7:00 pm, by Zoom Video Conferencing

Mayor Furman, Council Members Bartram, Crimmins, Engle, and Hill-Zayat; Town Manager Hoffman; and Clerk – Treasurer Engels were present via Zoom Video Conferencing. A moment of silence was observed.

The Town Meeting Minutes from November 9, 2020 were reviewed and approved. See Council Actions.

From the Mayor and Council

Development Review Board - 3906/3910 Knowles Avenue (Knowles Manor Senior Housing)

Council Member Engle recused himself from the discussion.

Council Member Crimmins reported that Jill McCrory, representing the Neighbors for an Improved Kensington, requested that further discussions pertaining to the settlement agreement and Resolution No. R-07-2020 be delayed and that the group will advise the Town once they are ready to resume discussions.

Council Member Bartram suggested that the Town send a letter requesting that Site Plan Amendment No. 820190080A, which would center the lay-by-lane in front of Knowles Manor Senior Living (3906/3910 Knowles Avenue), be removed from the Planning Board's Consent Agenda to allow additional public comment. In addition, Council Member Bartram noted that the letter should request that the State Highway Administration (SHA) should consider allowing short-term parking within the lay-by lane to accommodate deliveries.

The Council concurred to send an email to the Planning Board requesting that the Site Plan Amendment be removed from the Consent Agenda and to encourage SHA to install short-term parking options within the lay-by lane to accommodate deliveries.

Council Member Hill-Zayat stated that the Knowles Manor project has already been prolonged and has become divisive and did not support sending the request to the Planning Board.

Jack Gaffey stated that if the monetary contribution is transferred to the County, it should be used for traffic enforcement and not a community center.

Joe Campbell requested clarity on why Neighbors for an Improved Kensington were delaying the discussions pertaining to the settlement agreement.

Thrive Montgomery 2050

Council Member Crimmins stated that he, along with Mayor Furman and Town Manager Hoffman, attended a meeting with County Planning Chair Casey Anderson and Planning Director Gwen Wright on December 8 to discuss concerns with the Thrive Montgomery 2050. The Planning Board is reviewing a previously submitted letter from down-County municipalities and resident associations addressing concerns and that the Planning Board will address these concerns.

Police Reform Legislation

Mayor Furman stated that Mayor Stewart with Takoma Park had drafted a letter to Senator Will Smith and Senator Waldstreicher to enact Police Reform legislation and requested support of the Town. The letter specifically requests that the Law Enforcement Officer's Bill of Rights be repealed; reform the Public Information Act to allow disclosure over all complaints of police misconduct; and to enact a statewide use of force policy, which would prohibit officers from using force unless absolutely necessary and allow both criminal penalties and civil remedies.

Council Member Hill-Zayat questioned whether any input had been received from the Montgomery County Police or the Fraternal Order of Police with respect to the proposed legislation and disclosed that she may have a conflict of interest to represent the Town on this issue.

Council Members Bartram, Crimmins, and Engle concurred to support the letter, although they noted that the requested legislation only addressed three of the House Workgroup's twelve recommendations; the Council also suggested that a transmittal letter be included recognizing the professionalism and training of the Montgomery County Police and to incorporate their Best Practices statewide.

Ann Lichter, Chair of the Racial Justice Committee, noted that the Committee has been meeting since September to identify how the Town could best advocate for racial justice reforms and that the Committee supported the letter and Police Reform legislation.

Mayor Furman will request that Senator Jeff Waldstreicher be available for an upcoming Racial Justice Committee meeting to provide additional context pertaining to the proposed Police Reform legislation.

Joe Campbell supported inviting Senator Waldstreicher and noted the Council could revise the letter to their preference.

Pepeco Rate Case Filing

Council Member Hill-Zayat stated that the Town petitioned to intervene within the proposed PEPCO Rate Case (Case 9655), which is a formal process conducted by utility regulators to ensure reasonable rates, in an effort to monitor the proposed rate changes with respect to future streetlight upgrades within the Town. Council Member Hill-Zayat noted that the proposed rate would not increase during the first year; however, the rate would increase over the next two years to recover costs associated with infrastructure improvements. A Power Point presentation with possible streetlight upgrades was also presented for review, which identifies various fixture options for the Town.

Council Member Engle noted the importance of intervening now, which allows the Town time to negotiate with PEPCO on streetlight upgrades and audit the Town's existing streetlight system to

identify lighting gaps; and suggested that PEPCO may be able to test different lights and fixtures within the Town to allow feedback from the community.

Council Member Hill-Zayat and Engle will continue to follow this with Pepco and provide updates.

From the Town Manager and Staff

Mayor Furman thanked Rabbi Adam Rosenwasser and Cantor Lindsay Kanter with Temple Emanuel for their efforts during the virtual Hanukkah celebrations; and reminded Residents to shop local during the holiday season to support the Town's I Found My Holiday Gifts in Kensington campaign to support local businesses.

Town Manager Hoffman requested guidance on whether the Town staff should draft an ordinance addressing certain housing and building regulations. Specifically, Town Manager Hoffman advised the Council that the Town received a complaint with regards to the installation of a twelve (12') foot lattice within the front plane of a residential property. The intention of the lattice appears to serve as an accessory like structure; however, the County Zoning regulations define lattices as landscaping.

In addition, the Town received a building permit application that included multiple two-story bay windows, which would encroach within the Town's setback. The County Code allows a bay window to encroach up to 50 percent of the linear façade of a house; however, the Town staff believes this circumvents the spirit of the setback regulations.

The Council concurred to have the County confirm their definition of lattices prior to drafting an ordinance defining and regulating lattices and requested that the Town Attorney review the Town's encroachment regulations and if a variance may be necessary for the bay windows.

Kendall Watson stated he appreciated the Town addressing the issue and noted that the lattice would be compromised by the wind and thought it should be considered an accessory structure.

Jack Gaffey stated a bay window with a foundation violates the code and it is important to maintain the 10-foot side yard setback without projections.

Town Manager Hoffman stated that Ordinance No. O-01-2021 would be introduced in January, which corresponds with Charter Resolution No. CR-01-2020, in an effort to clarify the Town's Election process.

Public Appearances

Jack Gaffey noted upcoming astronomical events.

Joe Campbell thanked the Town Crew for their great efforts on leaf collection; and asked if the Town had a snow emergency policy in place for vehicles that park within the street.

Ordinances, Resolutions, Regulations

Charter Resolution No. CR-01-2020 – A Charter Resolution of the Mayor and Council of the Town of Kensington Amending Article VII, “Registration, Nominations and Election”, Section 703, “Removal”, Section 704, “Duties”, Section 705, “Notice of Elections”, Section 706, “Appeal of the Actions of the Board of Supervisors of Elections”, Section 707, “Registration”, Section 708, “Nominations”, Section 709, “Election of the Mayor and the Council Members”, Section 710, “Conduct of Elections”, and Section 712, “Vote Count”, to make provisions for resolving a Tie Vote, remove an invalid provision with respect to eliminating Voters from the Supplemental List, provide that no Election will be held and the qualified Candidates will be Declared Elected by the Supervisors of Elections if the number of qualified Candidates is not more than the number of seats to be filled, change how Notice of Elections is given, to allow for Publication in the Town Journal and posting to the Town’s website, any Town Listserv, and at Town Hall, limit Appeals of Supervisors of Elections decisions to Candidates and other qualified voters and set a time limit, extend the deadline to qualify as a Candidate to the third Monday in May in the event that no Candidate has timely filed for an office, clarify that qualifications for office are determined at the time of filing of the Certificate of Nomination, allow the Council by Resolution in an Emergency to postpone an Election until such time as it can be safely held, and to make other changes, allow the Council by Resolution to Authorize vote by mail, and allow placement of drop boxes for receipt of ballots was presented for introduction. The Public Hearing was set for Monday January 11, 2021, 7 pm. See Council Actions.

Town Manager Hoffman stated that the Town Attorney prepared the Charter Amendment, which includes recommendations from Council Members Bartram and Engle of the Town’s Election subcommittee.

Ordinance No. O-03-2020 – An Ordinance to Amend Chapter VIII, “Health and Environmental Regulations”, by Enacting Article 9, “Pesticides”, to incorporate Chapter 33B, of the Montgomery County Code entitled “Pesticides”, which contains various provisions to protect the health of the public and to make conforming changes was presented for introduction. The Public Hearing will be held on Monday, January 11, 2021, 7:00 pm. See Council Actions.

Town Manager Hoffman stated that this ordinance would adopt Montgomery County’s pesticide regulations and allow the county to enforce the regulations within the corporate limits of the Town.

Council Actions

Council Member Engle moved to approve the Town Meeting Minutes from November 9, 2020. The motion passed unanimously.

Council Member Bartram moved to approve endorsing a joint letter presented by Takoma Park Mayor Stewart requesting that the Maryland State Legislature adopt legislation pertaining to Police Reform, to include the following: Repeal in full the Law Enforcement Officer’s Bill of Rights; Reform the Public Information Act to allow disclosure over all complaints of police misconduct; and Enact a statewide use of force policy that prohibits officers from using force unless it is absolutely necessary and allowing both criminal penalties and civil remedies and including a transmittal letter if needed acknowledging the House Workgroup’s twelve recommendations to

Address Police Accountability in Maryland and recognizing the Montgomery County Police Department's (MPD) professionalism and training, in an effort to bring MPD's Best Practices into statewide Police Reform. The motion passed unanimously. Council Member Hill-Zayat abstained.

Council Member Crimmins moved to introduce Charter Resolution No. CR-01-2020 amending Article VII, "Registration, Nominations and Election", Section 703, "Removal", Section 704, "Duties", Section 705, "Notice of Elections", Section 706, "Appeal of the Actions of the Board of Supervisors of Elections", Section 707, "Registration", Section 708, "Nominations", Section 709, "Election of the Mayor and the Council Members", Section 710, "Conduct of Elections", and Section 712, "Vote Count", to make provisions for resolving a Tie Vote, remove an invalid provision with respect to eliminating Voters from the Supplemental List, provide that no Election will be held and the qualified Candidates will be Declared Elected by the Supervisors of Elections if the number of qualified Candidates is not more than the number of seats to be filled, change how Notice of Elections is given, to allow for Publication in the Town Journal and posting to the Town's website, any Town Listserv, and at Town Hall, limit Appeals of Supervisors of Elections decisions to Candidates and other qualified voters and set a time limit, extend the deadline to qualify as a Candidate to the third Monday in May in the event that no Candidate has timely filed for an office, clarify that qualifications for office are determined at the time of filing of the Certificate of Nomination, allow the Council by Resolution in an Emergency to postpone an Election until such time as it can be safely held, and to make other changes, allow the Council by Resolution to Authorize vote by mail, and allow placement of drop boxes for receipt of ballots; and set the Public Hearing for Monday, January 11, 2021, 7:00 pm. The motion passed unanimously.

Council Member Crimmins moved to introduce Ordinance No. O-03-2020 to Amend Chapter VIII, "Health and Environmental Regulations", by Enacting Article 9, "Pesticides", to incorporate Chapter 33B, of the Montgomery County Code entitled "Pesticides", which contains various provisions to protect the health of the public and to make conforming changes; and set the Public Hearing for Monday, January 11, 2021, 7:00 pm. The motion passed unanimously.

Council Member Hill-Zayat moved to adjourn the meeting at 9:37 pm. The motion passed unanimously.