

January 11, 2021 Town Council Meeting

(held by Zoom Video Conferencing)

- Approved the Town Meeting Minutes of December 14, 2020.
- Approved drafting a Professional Services Contract for streetlight consulting with Associates Inc Lighting Design.
- Held a Public Hearing on **Charter Resolution No. CR-01-2020** - A 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 record will be held open until Friday, February 5, 2021, 4:00 pm.*
- Held a Public Hearing on **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.
- *The public record will be held open until Friday, February 5, 2021, 4:00 pm.*
- Introduced **Ordinance No. O-01-2021** – Introduction of an Ordinance of the Mayor and Council of the Town of Kensington Amending Chapter 2, “Government and Administration”, Article 2, “Elections”, Section 2-201, “General Voter Registration”, Section 2-202, “Distribution of Absentee Ballots”, Section 2-203, “Procedures of Absentee Voting”, and Section 2-204, “Canvassing of Absentee Ballots” of the Town Code to delete any requirement that a voter provide a reason for voting by Absentee Ballot and to delete an invalid provision with respect to eliminating voters from the supplemental list.
- *The Public Hearing was set for Monday, February 8, 2021, 7:00 pm.*

Meeting January 11, 2021, 7:05 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 for Lorenza Simmons and Thomas Raskin.

Mayor Furman and Jon Gerson spoke in honor of longtime resident Lorenza “Lorri” Simmons, who passed away on January 1. Ms. Simmons’ lively spirit, activism, and volunteer service will continue to live through all those she had touched during her inspiring life.

The Town Meeting Minutes from December 14, 2020 were reviewed and approved. See Council Actions.

From the Mayor and Council

Pepco Rate Case Filing

Council Members Engle and Hill-Zayat noted that they met with a street lighting consultant, Scott Watson, with Associates Inc. Lighting Design, to discuss services related to evaluating the Town’s current street lighting needs and to provide guidance with respect to the proposed PEPCO Rate Case filing.

The Council concurred to move forward with a Professional Service Agreement with Mr. Watson for street lighting consulting. See Council Actions.

Council Member Engle stated that he, along with Council Member Hill-Zayat and Town Manager Hoffman, met with Tami Watkins, PEPCO’s Government and External Affairs Manager, to discuss street light options through the Rate Case and possibly have Kensington serve as a demonstration site. Ms. Watkins will join the Town to provide updates at the February Council Meeting.

Joe Campbell questioned the location of the proposed demonstration site, what it would entail, and if the site would be permanent.

Council Member Hill-Zayat stated that Mr. Watson would be working on behalf of the Town with PEPCO to determine the parameters of a possible demonstration site.

Development Review Board – Thrive Montgomery 2050 and Zoning Text Amendment (ZTA) 20-07

Council Member Crimmins noted that Montgomery Planning is reviewing the Thrive Montgomery 2050 Plan in consideration of questions they received on behalf of a number of municipalities and resident associations within the County. Additional information on Thrive Montgomery may be found at MontgomeryPlanning.org.

Council Member Crimmins also noted County Councilmember Will Jawando introduced ZTA 20-07, which focuses on providing attainable housing by reducing certain land restriction within one-half mile or one mile of a Metro station; although the Town is not within this radius, applicability could expand to MARC stations, which would apply the ZTA to the entirety of the Town. Two public hearings on the ZTA have been scheduled, January 28 and February 11, an update will be provided at the February Town Council Meeting.

Council Member Crimmins stated that the property owner for 10619 Connecticut Avenue, currently Hawkins Produce, is discussing redevelopment options with Montgomery Planning, which will come before the Development Review Board (DRB) once a sketch plan is submitted; and the developer for 10509 Summit Avenue, The Flats at Knowles Station, will be submitting plans to Planning soon for a mixed-use project.

Pedestrian and Bicycle Access and Safety Working Group

Council Member Engle stated that he will be presenting the Working Group's recommendations for pedestrian and bicycle improvements at the February Meeting; and also requested support from the Council to apply for a Technical Land-Use Connections (TLC) grant available through the Metropolitan Washington Council of Governments (MWCOG). The TLC grant would provide funding to study pedestrian and bicycle improvements along the Connecticut Avenue corridor and that the Town could also apply with the State to designate the corridor as a priority area.

The Council concurred to apply for the TLC grant and to designate the Connecticut Avenue corridor as a priority area.

Town Communication and Online Permitting System Upgrades

Town Manager Hoffman stated that he and Council Member Crimmins met with IWorQ Systems to discuss upgrading the Town's online permitting system in an effort to streamline the Town's permitting process; and also discussed through a partnering organization, TextMyGov, a text-based communications system that would allow the Town to send emergency notifications by text. Proposals for both software systems will be included within the FY22 Budget for continued discussion.

Council Member Engle suggested that IWorQ use the existing County GIS system instead of building a new dataset.

Council Member Bartram reported that the Traffic Committee will convene in the near future to discuss lowering the speed limits on Town streets.

Council Member Crimmins reported that the Montgomery County Board of Education is scheduled to meet to review current metrics related to COVID-19 and in person learning; an update will be provided at the February Council Meeting.

Mayor Furman noted that she spoke with Joey Lampl, Montgomery Parks, and confirmed that Washington Landmark Properties is still negotiating with Parks on the proposed Warner Mansion project, and that they are awaiting approval from Maryland Historical Trust to move forward with the park steps improvements at the intersection of Montgomery Avenue and Kent Street; the Racial Justice Committee will convene January 25 to discuss proposed Police Reform legislation with Jeff Waldstrieher; and noted that the deliClub, Kensington Market, and Tasty Grill to Go have all recently opened.

The Council supported the Town making a donation to Shepherd's Table in honor of Thomas Raskin.

From the Town Manager and Staff

Housing and Building Code Amendments

Town Manager Hoffman stated that he spoke with Town Attorney Ferguson with regards to the proposed encroachments (projections) for the new home on Perry Avenue and determined that the Town previously adopted a policy to accept the County's encroachments, including bay windows. However, the Town has the authority to adopt an ordinance restricting certain encroachments, as long as the regulation is more stringent than the County.

Council Members Bartram and Crimmins stated that foundation to roof line bay windows should not be considered bay windows, per the County's definition, and believe the proposed projections should require a variance.

Town Manager Hoffman and Council Member Bartram will discuss the issue further with Town Attorney Ferguson.

Town Manager Hoffman noted that he has not been able to clarify with the County on the definition of a lattice, and if they may be classified as a fence or accessory structure; Town Attorney Ferguson recommended that the Town adopt an ordinance to address future issues with lattices and fence like structures.

Engineering Services

Town Manager Hoffman reported that the Maryland Department of Transportation's (MDOT) Hydraulics Division conducted a preliminary review of the shared storm drain system (C-line) following the flash flooding this past September and determined that a full review of the system should be conducted by the Town.

A Request for Proposal (RFP) will be initiated for an engineering firm to review the full storm drain system; any improvement recommendations will be discussed with MDOT.

Council Member Engle suggested the engineering firm include green infrastructure such as rain gardens or use of a park in any recommendations.

Council Member Crimmins noted that the systems capacity would be important with regards to attainable housing proposed within Thrive Montgomery 2050 and ZTA 20-07.

Public Appearances

Jack Gaffey stated that a bay window with a foundation is part of the house and should not be a projection, and that any changes the County proposed in the future should also apply when adopting a new Town ordinance.

Gloria Capron commented that a projection that includes a foundation is part of the footprint of the house by adding square footage.

Joe Campbell asked when the Town plans to recognize David Gregg; why the street light consulting contract was not bid; referenced traffic concerns related to the Mormon Temple's Festival of Lights; and if there were any details pertaining to the proposed redevelopment at the Hawkins Produce site.

Town Manager Hoffman stated that he has been in contact with David Gregg and has yet to confirm when Mr. Gregg will be back in the area to formally recognize his service to the Town; and noted that the Street light consulting contract was below the Town's threshold to require public bids.

Mayor Furman stated that officials with the Temple did not foresee the popularity of the Festival of Lights program and have acknowledged that they will work closely with neighboring jurisdictions next year to help resolve the traffic issues; the Temple also sent out a video to neighbors with regards to the traffic.

Council Member Crimmins noted that there is a proposed design for a small retail center at the current Hawkins Produce site and he anticipates that the sketch plan will be submitted to the Development Review Board (DRB) in the near future.

Ordinances, Resolutions, Regulations

Charter Resolution No. CR-01-2020 – A Public Hearing was held on Charter Resolution No. CR-01-2020 to Amend 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 record will remain open until Friday, February 5, 2021, 4:00 pm. See Council Actions.

Joe Campbell noted concerns with the vote-by-mail system during the last election and the importance of the Town to encourage election integrity through in-person voting.

Ordinance No. O-03-2020 – A Public Hearing was held on 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. The record will remain open until Friday, February 5, 2021, 4:00 pm. See Council Actions.

Joe Campbell commented on whether the enforcement mechanism of the County is sufficient.

Council Member Bartram stated that he received a comment that requested that the Town not adopt the Ordinance.

Council Member Engle stated that he was satisfied with the County’s ability to handle enforcement of the Pesticide Law within the Town, as they also use this opportunity to provide education to both residents and contractors.

Ordinance No. O-01-2021– An Ordinance to Amend Chapter 2, “Government and Administration”, Article 2, “Elections”, Section 2-201, “General Voter Registration”, Section 2-202, “Distribution of Absentee Ballots”, Section 2-203, “Procedures of Absentee Voting”, and Section 2-204, “Canvassing of Absentee Ballots” of the Town Code to delete any requirement that a voter provide a reason for voting by Absentee Ballot and to delete an invalid provision with respect to eliminating voters from the supplemental list was presented for introduction. The Public Hearing was set for Monday, February 8, 2021, 7:00 pm. See Council Actions.

Town Manager Hoffman noted that Ordinance No. O-01-2021 corresponds with Charter Resolution CR-01-2020 and will bring the Town’s Election Code into compliance with the State.

Council Actions

Council Member Bartram moved to approve the Town Meeting Minutes from December 14, 2020. The motion passed unanimously.

Council Member Hill-Zayat moved to enter into a Professional Services contract, in an amount not to exceed \$5,000, with Scott Watson of Associates Inc. Lighting Design for street light consulting. The motion passed unanimously.

Council Member Crimmins moved to hold the record open on 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 to Friday, February 5, 2021, 4:00 pm. The motion passed unanimously.

Council Member Engle moved to hold the record open on 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 to Friday February 5, 2021, 4:00 pm. The motion passed unanimously.

Council Member Crimmins moved to introduce Ordinance No. O-01-2021 to Amend Chapter 2, "Government and Administration", Article 2, "Elections", Section 2-201, "General Voter Registration", Section 2-202, "Distribution of Absentee Ballots", Section 2-203, "Procedures of Absentee Voting", and Section 2-204, "Canvassing of Absentee Ballots" of the Town Code to delete any requirement that a voter provide a reason for voting by Absentee Ballot and to delete an invalid provision with respect to eliminating voters from the supplemental list and set the Public Hearing for Monday, February 8, 2021, 7:00 pm. The motion passed unanimously.

Council Member Hill-Zayat moved to adjourn the meeting at 9:41 pm. The motion passed unanimously.