

TOWN OF KEEDYSVILLE, MARYLAND

"Where Northern Thrift and Personality Blend with Southern Charm and Hospitality"

P.O. Box 359
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Ken Lord, Mayor
Judy Kerns, Council
Matthew Hull, Council
Brandon Sweeney, Council

January 6, 2021

The monthly meeting of the Keedysville Town Council was called to order at 7:00pm with the following members present: Mayor Ken Lord, Council Members Judy Kerns, Matt Hull, and Brandon Sweeney, Town Attorney Ed Kuczynski, Town Administrator Rick Bishop, and Assistant Town Administrator Lisa Riner.

The minutes for December 2020 were approved.

General Fund report was \$207,889.53.

Mayor Lord noted the announcements listed on the agenda.

Mr. Bishop read the report from Deputy Tracey, who said it was a slow December. There were no calls for service while he was on duty.

Mr. Bishop said that playground equipment is here. Willow Run Farm Landscaping will install them.

Mayor Lord noted Willow Run Farm did a great job with snow removal.

Mr. Bishop said that last month the Council discussed making one change to the Streambank Restoration agreement. The wording of the agreement didn't change, but a Certificate of Insurance with the Town as a holder was provided. The grant application must be submitted by February 1, 2021, so Mr. Kuczynski prepared an Emergency Ordinance to Enter into a Stream Restoration Agreement with the Washington County Soil and Conservation District. Mr. Hull made a motion to introduce the ordinance on an emergency basis, with an effective date of January 6, 2021. Mr. Sweeney seconded the motion. All voted in favor. The ordinance was read. Mr. Hull made a motion to approve the ordinance. Ms. Kerns seconded the motion. All voted in favor.

Mr. Bishop noted that the Project Open Space Grant for Taylor Park pavilion and light upgrades has been submitted.

Mr. Bishop said the vault for the Quilt Restoration Project was painted and the electrical work is complete. The plexiglass partition and the quilt will be installed on January 19, 2021. Ms. Kerns asked about how the funding for the project is going. Mr. Bishop replied that there are little expenses that keep cropping up. Mayor Lord asked if we owed Sue Gemini any money for the project, and Mr. Bishop said we do not. Mr. Bishop noted the Town had to order desiccants (a drying agent), for the project, which were \$650.

Ms. Kerns noted the Hometown Hero Banner applications are ready to go out to the residents. Information will be posted on the website and Facebook. Delivery of the banners from Mercersburg Printing will be free. Banner applications will be processed a first-come, first-serve basis. The Town has room to post 23 banners, but the Town will need to order a few more banner arms.

Mr. Bishop said there are two residents would like to have dimmers added to their street lights. This will likely happen when the banners are hung.

Mayor Lord noted that the Town needs to fill the Assistant Mayor vacancy left by Barry Levey and that according to the charter it happens by appointment. Mr. Hull motioned to appoint Mr. Sweeney to the position of Assistant Mayor. Ms. Kerns seconded the motion. All voted in favor. Mayor Lord noted their appreciation for Mr. Sweeney's willingness to fill the role. Mr. Sweeney will be sworn in at the next meeting.

Mayor Lord introduced a request for a donation to the Leukemia and Lymphoma Society (LLS). Mr. Hull motioned to donate \$100 to LLS. Mr. Sweeney seconded the motion. All voted in favor.

Mr. Bishop explained that the Town usually gives annually \$1,000 each to Boonsboro Fire, Boonsboro Emergency Services, Sharpsburg Fire, and Sharpsburg Emergency Services. Ms. Kerns motioned to make the donations. Mr. Hull seconded the motion. All voted in favor.

The Town Christmas Tree is coming down this week. Kelly Ellis and Tracie Grim are taking it down.

Mr. Bishop read a summary of an email from Mr. Justin Holder.

A resident has informed Ms. Kerns that the dip in Mt. Vernon Lane, which creates a puddling issue, seems to be getting worse. Mr. Hull said some properties would have to be dug up in order to fix it, so there is nothing the Town can do with it.

Antietam Road water line is completed. Mr. Bishop said Antietam Road needs to be milled and repaved. He would also like to repair and put in concrete by the outflow of the pond and install asphalt back to the rail bed. However, there may be a sewer line there, which could need to be dug up.

Mr. Bishop said the Town no longer has a place to dump street sweeping. Boonsboro is no longer doing street sweeping. The Town needs to find a new place to dump.

Mayor Lord wants to address some road paving jobs around town in the coming year.

Ms. Kerns brought up the Community Legacy Grant and noted they will help pay for signs, banners, etc. The Town may be able to use this grant for holiday decorations. Ms. Kerns also suggested the Town explore the Sustainable Communities Program. Mayor Lord noted that Banner Cities is another program the Town could look into.

Mayor Lord said the Maryland Municipal League Conference is usually held in June or July. It may be virtual this year.

Simmons Solutions and Willow Run Farm are interested in helping the Town hang banners.

Meeting adjourned at 7:35pm.

Respectfully Submitted,
Lisa Riner
Assistant Town Administrator

Corporation of Keedysville
January 6, 2021
Agenda
Mayor & Council

Call to Order

Pledge of Allegiance

Approval of Minutes

General Fund Report: \$207,889.53

Announcements: Yard Waste Pickups Suspended January to March

Planning & Zoning Commission Meeting Monday, Jan. 11 Available on FB Live

Christmas Tree Pickup Tuesday, January 12

Town Hall Closed Monday, January 18

Community Deputy Report

Old Business: Playground Equipment; Streambank Restoration; Hometown Hero
Banners; POS Grant; Quilt Restoration

New Business: Assistant Mayor Position; Donation for Leukemia & Lymphoma Society;
Fire & Rescue Donations;

Comments by Residents

Comments by Council

Adjournment

Water Commission

Call to Order

Approval of Minutes

General Fund Report: \$98,069.59

Old Business: Antietam Waterline; WTP Gate & Fence; Hydrant Masts;

New Business:

Comments by Residents

Adjournment

Justin Holder asked for an email and attachment he sent be included as part of the minutes. He says he has, and I quote, "served the Town Attorney with notice of tort and malfeasance attached to this email." He states that there is a systematic failure of government. He goes on to list a number of these failures. The email and attachment will be made part of the minutes of this meeting.

URGENT

From: Justin Holder <jholder2004@gmail.com>
Sent: Monday, December 14, 2020 4:01 PM
To: Ed Kuczynski
Cc: Downey, Kirk; Bright, Andrew; Town Hall; Ken Lord; Judy Kerns; hullscraneservice@hotmail.com; bsweeney@keedysvillemd.com
Subject: Please read and post in January Meetings
Attachments: Tort Claim Notice APF 12_14_20.pdf

To whom it may concern:

I have served the Town Attorney with notice of tort and malfeasance attached to this email. I have asked that that notice be posted as part of the minutes of the January meeting.

I ask citizens to read the notice supporting my effort to hold the town accountable for a systematic failure of government. Multiple property owners have been affected severely by the inaction, or worse of Mayor and Council. Citizens were sold homes with adequate roads running through their backyards. The Adequate Public Facilities Ordinance requires all "existing developed properties" to have or be installed Adequate Public Facilities when building a new subdivision. The county has proper processes for extinguishing roads and right of ways it owns by public hearing. This is not the only property or only subdivision in town with property line and easement issues that have been ignored.

Furthermore the county road that was concealed should be preserved. It is the oldest road in the state perhaps. The road, known as the "Great Philadelphia Wagon Road" has been written about by town Resident and historian Ted Ellis, and documented in numerous Maryland Historical Trust Files. This road was in use taking colonists to the Frontier from Philadelphia across packhorse Ford in Shepherdstown, Virginia since at least 1737. This road was an Iroquois warrior trail, and in use by the Native Americans for centuries. This road was walked by Generals Braddock and future General George Washington in 1755. Keedysville is rich with history, and contains quite a few "ancient roads no longer in use" according to the Washington County Attorney's office. The Attorney's office has informed me that the decision as to whether to repair or abandon the roads is not a decision the Attorney's make.

I am writing to ask for a public hearing held and as a taxpayer to petition the Commissioners, Mayor and Council to repair all county roads to at least a standard in which citizens could use said roads for walking, hiking and biking. Walking, Hiking, and Biking on these very scenic roads would be much safer than the same activities on the shoulderless roads around town. In the event the Government or public through hearing decide to abandon said roads, I request Adequate Public Facilities to all "existing improved property" as the law requires.

I have made multiple suggestions to the Mayor and Council of Keedysville to address and redress this matter. To this day I have not received one response to what I believe is a substantial and systemic failure to govern. The burden of Adequate Public Facilities is a modern day given in America, and the State of Maryland. The Mayor and Council should not place the burden and hardship, along with the contention it creates squarely on the community they are supposed to lead. I have asked repeatedly for this issue to be placed on the agenda for Planning and Zoning and that has been ignored. For example the current 8 foot wide trail into 25 and 28 Antietam Drive is labeled no trespassing, and the minimum width for a road is 30 foot per ordinance. The Maryland Department of Environment minimum separation for water and sewer lines is 10 foot. There is not adequate space to even install utilities in this road. How long will residents suffer and be placed in contention by the inactions of the town to address what could be a simple solution?

Respectfully,

Justin Holder



Virus-free. www.avast.com

DATE OF NOTICE 12/14/2020

Sent/Served upon Washington County Attorney and Keedysville Town Attorney

Mayor Ken Lord

Vice Mayor Barry Levy (resigned)

Council Judy Kerns, Brandon Sweeney, Matthew Hull

Washington County Commissioner Jeffrey Cline, Terry Baker, Cort Meinelschmidt,

Wayne Keefer, and Randall Wagner

Re: Local Government Tort Claims Act Notice

Claimant: Justin Holder and Town of Keedysville 'writ large

Date of Incident: March 5th, 2020, continuing

Dear Mayor and Council, County Commissioners, Planning, Residents, et al;

I am writing in connection with damages sustained as a result of an unlawful and wrongful denial of Adequate Public Facilities ("APF") to properties at 25 Antietam Drive and 28 Antietam Drive in Keedysville, Washington County, Maryland (the "Properties"). Please allow this letter to serve as the Town's and County's official notice of the undersigned's intent to pursue a claim under Courts and Judicial Procedures Article, § 5-301, et seq.

Adequate Public Utilities were required in Washington County since October 16th, 1990, when the Washington County Adequate Public Facilities Ordinance was made law. The Town of Keedysville planning commission talked extensively about APF all through the 1970's and early 80's. The State of Maryland required Adequate Facilities in 1992 by the Economic Growth, Resource Protection and Planning Act. The State again required APF in 1997 in the Priority Funding Areas Act. In 2006 House Bill 1141 required APF. In 2009 the State's Smart and Sustainable Growth Act (House Bill 294,295 and 297)

required APF. In 2010 the state passed the Sustainable Communities Act requiring APF. In 2012 the Sustainable Growth and Agricultural Preservation Act required APF. In 2013 the Sustainable Communities Tax Increment Financing (TIF) Designation and Financial Law required APF. In May of 2002 the Town of Keedysville adopted a sub division ordinance requiring APF. In 2004, 2005, 2006 and 2009 Keedysville again adopted land use, APF and Subdivision revisions all requiring APF. In 2010 the Town of Keedysville adopted as law the 2009 Comprehensive Plan in accordance with House Bill 1141 and MD Local Public Law 2-701. It is also just common sense and morale right to provide water, sewer, roads and fire protection to citizens in 2020. All of these plans, laws, ordinances required APF which includes Water, Sewer, Adequate roads and fire protection to "EXISTING DEVELOPED PROPERTIES" as a requisite to subdivision plat approval and Bond Release by the developer. It is required by the above laws, codes, statutes, and ordinance that existing developed properties are protected and those rights such as roads are protected from the greed and corruption in land development, that APF are and continue to be provided to those properties.

Nevertheless, Adequate Public Facilities have been wrongfully and unlawfully denied to the Properties. The Federal Fair Housing Act requires consideration be given to all income levels and median price of housing during community development. All aspects of said Housing Act have been totally ignored. The Stonecrest plat 8292 was approved by planning with the requirements of "existing developed property" negligently ignored, or worse. The Developer as recently as May of 2020 was returned bonds with documented Storm Water Management violations, leaking water mains and hydrants, and inadequate roads, water and sewer service, non existent fire protection. This bond return was signed off by the Mayor and Council despite repeated and continuing protest by residents and property owners or managers. Everyday of this continued denial, defamation, and malicious withholding of Adequate Public Facilities is a new claim and new crime of malfeasance. Any Limitations would not start until the wrongful acts are righted.

Furthermore the Mayor and Council not only returned the bond to developer and negligently released the developer of lawful duty. The Mayor and Council disabled the fire protection, placed no trespassing signs on the undersized access, and have refused to hook up the water or install the sewer service to "existing developed properties" as required by a plethora of law, statute, ordinance and rule. The Mayor and Council have not only flat out refused to act to protect property and citizens, they have acted to protect the private interest of the developer and the developers profits. The Mayor and the Council have received "special favors" from the developer. The Mayor and Council have denied citizens lawful access to Public Information that would prove beyond reasonable doubt that waste fraud and abuse has occurred. The EPA and MDMHH as well as Hud provided 15.7 million dollars in 1989 to install sewer service to the properties. The Maryland Rural Heritage fund, MDE and others provided 3.4 Million dollars in 2010 to install water service to the properties. The Town in September of 2009 placed a bid in the Herald Mail to perform work on the Antietam water line and never followed through to complete the work. The Mayor and Council as well as planning have continued on a course of conduct to conceal

nonfeasance and misfeasance. When questioned on March 5th, 2020 in the town meeting a malicious campaign of defamation of property owners and managers as well as private citizens began. These property owners and private citizens who question, or petition for redress the negligent and incompetence's are targeted in criminal probes, and smear campaigns by the politicians to conceal said negligence.. The Mayor has sent emails to the Sheriff calling for investigations into claims he knew were false at the time the email was sent. These actions, defamation, bullying, and malfeasance by Mayor, Council and planning have greatly harmed private citizens and property owners. It was deliberately intended to tarnish the reputations to serve the purpose of Mayor and Council to continue to conceal previous misappropriation of Government grants and funding, as well as future revenue and funding provided under the Effluent discharge permits by falsely claiming by mail or wire fraud that properties did have existing sewer and water service. By law the Town can not retain any portion of building excise tax if APF to Existing improved property does not exist. These actions are not only intentional torts against the citizens. These actions constitute a lack of fiduciary duty, reckless endangerment, Article 40 taking and inverse condemnation of property, as well as General Common Law Malfeasance that demands removal from office.

This notice serves as intent to file as a class of taxpayers wrongfully burdened by the misconduct, abuse, malfeasance, nonfeasance, and misfeasance of Mayor and Council. The direct result of refusing to hold the Developer accountable to the law and developer agreement has put an undue burden on taxpayers of the town to wright the wrong. It is in the best interest of the town to immediately file suit to recover damages to taxpayers for the incomplete work on Stonecrest Development. The town was complicit in concealing an adequate county road 30 foot across the rear yards of unsuspecting purchasers of new homes in the Stonecrest development. The town allowed to be created building lots without APF and that do not conform to modern zoning ordinance. The unsuspecting purchasers have been harmed by this negligence, or worse behavior. As have all residents whom pay taxes and will ultimately pay the price for the Mayor and Council's malfeasance. The Mayor and Council continue to conceal, ignore and maliciously defame citizens whom ask for redress in order to pass the time such that their friend whom gave the Mayor and Council "special favors" has passed the Statute of Limitations for claim. The Mayor himself had an opportunity to address the matter with Stonecrest residents on May 20th, 2020 in which he was aware of all of the issues, and had been told consistently by Justin Holder Property manager for months of the failures by the developer to comply with the law. This includes a March 2nd, 2020 email in which demand to comply with the law was emphasized, as well as the cost of legal expense's in defending the continued decision not to comply. To this date the March 2nd email has went unanswered. The legal expenses, time and resources that have been spent over the past 10 months surpass the cost of righting the wrong. These expenses could have been used to pursue a claim against the developer, but because of the "special" relationship the town has, they chose to defame, and diminish the reputation of citizens, and ignore and misguide the residents of Stonecrest into pursuing malicious process and prosecution to do the evil will of town officials whom are too arrogant to admit their ignorance, incompetence, corruption and worse.

Accordingly, the undersigned respectfully demands the provision of Adequate Public Facilities to the Properties above mentioned as well as damages in the amount of \$500.00 per day per Property to the owner for their wrongful withholding of APF for all times past up through and including the date of this letter. If this claim is denied, then the undersigned intends to seek all legal, equitable, declaratory, mandamus and injunctive relief necessary to recover the same. I have legal standing to file suit under the Environmental Protection Act of Maryland.

Please kindly advise me of your receipt of this notice and whether the Town and/or County will forward the matter to its insurer or any other party for further correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Holder". The signature is fluid and cursive, with the first name "Justin" and last name "Holder" clearly distinguishable.

Justin Holder

cc: Edward Kuczinski Keedysville Town Attorney

Kirk Downey Washington County Attorney

Town of Keedysville 'writ large Petition: