

## OFFICIAL MINUTES February 3, 2020

The Regular Meeting of February 3, 2020, of Council for the Borough of Kennett Square was called to order at 7:00 p.m. in the Monroe Nute Room of the Kennett Fire Company No. 1, 301 Dalmatian Street, Kennett Square, Pennsylvania with President Mercomes in the Chair.

### ROLL CALL

Present: *President Brenda Mercomes*  
*Councilmember Ethan L. Cramer*  
*Councilmember J. Douglas Doerfler*  
*Councilmember Rosa Moore*  
*Councilmember LaToya Myers*  
*Councilmember Peter L. Waterkotte*  
*Councilmember Mayra Zavala*

*Borough Manager Joseph C. Scalise*

Absent *Mayor Matthew W. Fetick*

### EXECUTIVE SESSION

President Brenda Mercomes reported that Council held an Executive Session at 6:30 p.m. on Monday, February 3, 2020. The purpose of this session was to discuss a potential legal matter.

### ADOPTION of AGENDA

*It was moved by Councilmember Waterkotte to approve the agenda as presented; seconded by Councilmember Doerfler.*

*The motion carried unanimously.*

### PUBLIC COMMENTS

Janet DiFilippo, 444 Birch Street, asked for information on the proposed bike lane on Birch Street as well as the sidewalks that will be put in, and if the homeowner will have to pay for the work.

Borough Manager Scalise explained that the Birch Street agenda item tonight is in regard to a grant we have received primarily for stormwater management. He noted there is no current assessment for Birch Street, which is when Council asks homeowners to pay for part of a project.

John Thomas, 406 South Broad Street, commented that low income housing should be built in New Garden and Kennett Townships because the Borough does not have the space. He also

commented that the NVF property should have new zoning to include mixed uses, green space, commercial, light industry and residential uses. He shared his concern on how to protect the nature of the Borough, noting that residents do not want to see buildings built right on the curb, we like to see front yards. Mr. Thomas suggested that Council should listen to what residents want and adjust the zoning to follow suit.

Charla Watson, 523 Magnolia Street, commented that zoning should be etched in stone since it is very specific and noted that residents bought their homes based on the zone. She feels that overlays disturb and undermine the value of our homes and believes that proper zoning makes a neighborhood. She encouraged Council to vote for what is best for the Borough rather than for their individual purposes.

## **CONSENT ITEMS**

President Mercomes announced that the following Consent Items are deemed accepted with the approval of the agenda:

- Minutes of January 21, 2020.
- Bills that were paid since the last Council meeting.

## **REPORTS**

### **PRESIDENT'S**

President Mercomes advised she will provide a President's report at the next meeting.

### **PLANNING COMMITTEE**

Russell Drumheller, Code Enforcement Officer, submitted a written report for the Planning Commission that was included in the Council packet and noted he will provide Council with a quarterly update from the Commission going forward.

### **HISTORIC KENNETT SQUARE**

Bo Wright, Executive Director of Historic Kennett Square (HKS) submitted a written report that was included in the Council packet. In addition, he shared that HKS is looking to reimagine its role in the community and you will be hearing more about that in the coming months. Mr. Wright noted that Winterfest tickets are on sale for the February 29, 2020 event. He shared that before becoming the Executive Director of HKS, he was the Development Director for Strong Towns, a media site that deals with urban and town planning issues.

### **ADVISORY COMMISSION ON LATINO AFFAIRS (ACOLA)**

Luis Tovar, Chair of ACOLA, submitted a written report that was included in the Council packet. In addition, Mr. Tovar asked Council to identify one (1) or two (2) Councilmembers to help work through some of their proposed initiatives.

Councilmember Zavala shared that she served on ACOLA since its inception and Councilmembers have rarely come to their meetings to ask the opinion of the Latino community. She believes it should not be about one Councilmember attending ACOLA meetings, rather that Council should be actively engaging the Latino population in the Borough.

Vice President Moore asked Mr. Tovar what the cost is for a standing interpreter.

Mr. Tovar noted that historically, it is \$50.00 per meeting.

Councilmember Waterkotte advised that we have already raised the money and purchased translation devices, we just need to get the translation service off the ground. He also noted that Councilmember Zavala is right, Council does need to be more involved and attend these meetings to gain a better understanding of the issues and needs, both as residents and Councilmembers.

## **PRESENTATION and ACTION ITEM - LRK CONSIDER FORWARDING DRAFT VPP ZONING ORDINANCE AMENDMENTS to the PLANNING COMMISSION for PUBLIC INPUT and RECOMMENDATIONS**

Nate Echeverria, Economic Development Director, shared he has been the program manager for this project since it began. He explained that Borough staff applied for the Vision Partnership Program (VPP) grant in Spring 2017 and was awarded the grant in the Fall of 2017. He noted the grant was intended to help update zoning ordinances and to ultimately further Chester County's Landscape Three (3) Plan. Mr. Echeverria shared there was a project task force with representatives from the Borough and the Township. He explained that the vote tonight is to initiate the public process and make the draft documents public.

Michael Kimmey, LRK, presented zoning ideas for three (3) areas of the Borough, the State and Cypress Streets area, Birch Street and the NVF property. He noted this is a framework for zoning and gives us a place to begin conversations. Mr. Kimmey commented that a public workshop was held in September 2018 at the American Legion in the Borough and there was a good turnout. He shared that over the past year and a half, they developed the overlays in the draft and noted the approach was to use less text and be more photo intensive.

**It was moved by Vice President Moore to forward the Draft VPP Zoning Ordinance Amendments to the Planning Commission for Public Input and Recommendations; seconded by Councilmember Doerfler.**

Councilmember Myers asked why overlays were developed rather than rewriting the underlying zoning code.

Mr. Echeverria explained the ideas came from the task force, staff, and the committee. He commented that the Borough's zoning code has not had a comprehensive update in a long time, and it is an enormous task. He shared that Kennett Township is in that process now and it will take years to complete. He explained that an overlay sits over the Borough and the base zoning still exists. He also noted that an overlay is easy to repeal if it is not working.

President Mercomes asked how the Act 247 public process will work.

Mr. Echeverria clarified that the Act 247 process has not yet begun. He advised that if Council votes to move forward tonight, then they will complete a final draft and send it back to Council; if Council approves the final draft, then the Act 247 process begins and the final draft will move on to the County. He advised that Council determines when the public process should begin and it is best for Council to be very comfortable with the document before that point.

Borough Solicitor Crotty advised the Borough's portion of Act 247 can be satisfied with special public meetings at the Planning Commission level, for residents to review the document. He noted the document can also go to individual Boards and Commissions, such as ACOLA and HARB for input as well.

Councilmember Cramer shared a power point presentation detailing his opinions on the VPP draft document. He noted the document was put together and is now ready for the public, yet Councilmembers were not included in the process, nor was the public. He believes that overlays have the potential to be effective, but they can also lead to inequities and inefficiencies. Councilmember Cramer commented that the overlay came out of the task force and should have come before Council. He noted that while the underlying zoning remains, when the overlay is added, the options open up for almost anything. Councilmember Cramer shared his concern that this could lead to residents losing their homes, for instance, to makers space. He shared that if we move this document forward, we will shed the protections that are provided by the base zoning for residential areas. Councilmember Cramer noted that the traditional neighborhood design proposed in the draft document is not reflective of the eclectic community in which we live, whose population is half Latino. He also commented that many of the rules under this draft document are unenforceable because they rely on opinion. He believes there are two (2) options going forward, reject the document now, or take the document apart and look at it piece by piece; he feels that if we move it forward to the Planning Commission, we are not doing our job as Councilmembers.

Councilmember Zavala commented that ACOLA has waited to hear about this project, but no one came to a meeting. She advised we need to reach out to the community in a better way.

Vice President Moore noted this began many years ago and we have reached a point where developers are knocking on our door and we have to make decisions. She shared her opinion that having a framework from which to start is the best way to move forward with transparency. She further commented that we now have the opportunity to get the public input that is needed. She suggested we move forward with the draft document and make changes to the draft according to public input.

Councilmember Waterkotte agreed that the way to be transparent is to move forward and give the public the opportunity learn about zoning and express their opinions on the document. He commented that everyone was invited to the public meetings and there was no secrecy. Councilmember Waterkotte feels we need to get the public involved so that we can figure out if this is right for our community and noted we cannot learn more if we do not move forward to get more information.

Councilmember Doerfler shared that he respects the questions that Councilmember Cramer raised. He commented that we have the same scenario often, noting for instance, that Borough Manager Scalise can be working on something which is then brought to the public; it does not mean we are not being transparent. Mr. Doerfler believes we can be very transparent and involve the public when it is time.

Councilmember Myers commented that Councilmembers that should have been updated on the progress of the task force, and both Councilmembers and the public should have had more input in the process thus far. Councilmember Myers does not think the document is ready for our Planning Commission.

## **PUBLIC COMMENTS**

Charla Watson commented that she attended the meeting at the American Legion, was the one of the only minorities and one of just a few Borough residents in attendance. Ms. Watson believes this was a union between municipalities, written and designed by Kennett Township. She believes the process was flawed from the beginning and never really included Borough residents.

John Thomas commented that the Borough does not own the NVF property and we cannot tell a private owner what to do with their property. He feels that the overlay gives developers an advantage. Mr. Thomas suggested the VPP document should be given to the public now, without waiting for the Planning Commission. He noted that Kennett Township voted no on what is being considered tonight, which puts the Borough at a disadvantage. He commented that Kennett Township is building all around the Borough, and we should not move forward if they voted not do so. Mr. Thomas shared he does not want the Borough to partner with Kennett Township in this way.

Ken Edwards, 412 Meredith Street, commented on the NVF property, noting they are digging on the property again and he does not think it is safe. He also believes that the current zoning map needs to be updated.

Carol Krawczyk, 521 West State Street commented that she put this meeting on Facebook today and is happy to see the room so full. She noted that the Planning Commission is made up of people who have learned zoning and she invited the public to attend the Planning Commission meetings, which are open to the public. She offered to talk with small groups of people or even individually, to help residents understand the VPP document. She noted that as citizens, we need to help each other understand this possible zoning plan.

Tony D'Ottavio, 518 East South Street, commented that we need a better projection system so that everyone can see presentations clearly.

Clara Saxton, 120 West Linden Street, suggested that Councilmembers should have come to the meetings. She feels we need to stand up for affordable housing, which is so crucial to half of this Borough. Ms. Saxton noted the session at the American Legion was very informative. She believes we have to move forward with VPP document and get the public involved now.

Bo Wright, HKS noted in clarification that there were others from the Borough in attendance at the American Legion meeting. He also advised that the Borough's zoning needs to be updated and it could be accomplished through the VPP document.

President Mercomes called for the vote.

**The motion did not pass with a vote of 3-4, with Councilmembers Doerfler, Waterkotte and Moore voting yes.**

**PUBLIC MEETING and ACTION ITEMS****CONSIDER APPROVAL OF ORDINANCE AMENDMENT, CHAPTER 24  
STORMWATER MANAGEMENT, HIGH TUNNELS**

Russell Drumheller, Code Enforcement Officer, explained that the State has mandated we amend our current storm water ordinance to permit the construction of high tunnels with less storm management requirements. He noted that the Planning Commission approved the proposed changes at their November 13<sup>th</sup> meeting. Mr. Drumheller explained that the amendment applies mostly to farmers and that high tunnels are large greenhouses, or hoop houses, large enough to accommodate tractors.

*It was moved by Councilmember Doerfler to approve the Ordinance Amendment to Chapter 24, Stormwater Management and High Tunnels; seconded by Councilmember Cramer.*

**PUBLIC COMMENTS**

There were no public comments

*The motion carried unanimously.*

**CONSIDER APPROVAL of NON-UNIFORM PENSION ORDINANCE**

Borough Manager Scalise explained that the Borough was contacted by PMRS (Pennsylvania Municipal Retirement System) to inform us of changes/updates that need to be made to the ordinances of all participating municipalities. Mr. Scalise advised that the only proposed changes to our plan are defining full time and part time (if part time you must work 20 hours per week or more to be eligible to participate, where there is currently no minimum hours requirement) and allowing employees to make optional contributions should they choose.

*It was moved by Councilmember Waterkotte to approve the Non-Uniform Pension Ordinance; seconded by Councilmember Moore.*

**PUBLIC COMMENTS**

There were no public comments.

*The motion carried unanimously.*

**ACTION ITEMS****CONSIDER AGREEMENT-CHESTER COUNTY ECONOMIC DEVELOPMENT  
COUNCIL (CCEDC)**

Borough Manager Scalise explained that on September 17, 2018 Council authorized staff to proceed on structuring an umbrella agreement with the CCEDC related to Borough property and mixed income housing. The proposed agreement contains an avenue for the Borough to partner with the CCEDC to have more control over the end use of a property and take advantage of the benefits that the CCEDC can offer to

the sale of underutilized Borough-owned properties. This agreement sets forth the groundwork, should Council and the CCEDC decide to enter into agreements on specific properties in the future. He noted that Mary Frances McGerrity is also in attendance tonight.

Mary Frances McGerrity, CCEDC shared that she heard Council is interested in having affordable housing in the Borough, noting that it is allowable under the Borough Code and the State. She is supportive of Council's interest and noted it would be wonderful to see the Borough fund something creative and partner with a developer for affordable housing.

**It was motioned by Councilmember Cramer to approve the Agreement with CCEDC; seconded by Councilmember Doerfler.**

Councilmember Cramer shared that this idea came through the Municipal Relations Committee. He noted that the Borough owns tax parcels that could preserve or build low price housing for the Borough.

### **PUBLIC COMMENT**

John Thomas commented that he is supportive of this effort but noted that you cannot put low income housing in a high-end neighborhood. He feels they should go to the Zoning Board first. Mr. Thomas also asked for the location of the lots owned by the Borough.

Ms. McGarrity advised that a recommendation on a Borough parcel would come before Council for a vote and noted these are municipally owned parcels in residential zones that the CCEDC would be directed to work on by Council.

Charla Watson shared she believes in using these parcels for low income housing and suggested they could be used for open space as well. She also commented that municipal parcels are likely not in the expensive areas of town.

**The motion carried unanimously.**

### **HARB APPLICATION - 123 WEST MULBERRY STREET - CARRIAGE HOUSE REMODEL**

**It was motioned by Councilmember Cramer to approve the Certificate of Appropriateness for 123 West Mulberry Street; seconded by Councilmember Doerfler.**

### **PUBLIC COMMENT**

There were no public comments.

**The motion carried unanimously.**

**CONSIDER RESOLUTION - APPOINTMENT of AUDITOR**

Borough Manager Scalise explained that our ordinance requires the appointment of the Borough auditor via resolution. He shared that in 2018, RFPs for auditors were sent out and we selected Zelenofske Axelrod LLC for our annual financial audits including a CAFR (Comprehensive Annual Financial Report) for 2019. Mr. Scalise commented that a CAFR is a set of reports produced by local governments that include the annual audit, as well as statistics and other relevant financial information based on guidelines from the Government Accounting Standards Board. Completion of this report illustrates the municipality's transparency efforts, excellence in financial reporting, and acts as essential supporting documentation for investors in local government debt instruments.

**It was motioned by Councilmember Cramer to approve the Resolution for the Appointment of the Auditor as presented; seconded by Councilmember Moore.**

**PUBLIC COMMENT**

There were no public comments.

**The motion carried unanimously.**

**CONSIDER BIRCH STREET COMMUNITY REVITALIZATION PROGRAM (CRP) GRANT AGREEMENT**

Borough Manager Scalise shared that we were awarded a grant last year for stormwater improvements on Birch Street and the Department of Community Development has sent the grant agreement for approval. He noted that Council supported the application via Resolution 2019-11. Mr. Scalise advised that the grant is for \$500,000, mostly for stormwater improvements, minor sanitary sewer upgrades and small pedestrian improvements.

**It was motioned by Councilmember Waterkotte to approve the Birch Street CRP Grant Agreement as presented; seconded by Councilmember Cramer.**

Councilmember Cramer commented that this is infrastructure improvement, which is the right thing to concentrate on because of the positive effect on our residents.

**PUBLIC COMMENT**

Janet Defillippo asked what the small pedestrian improvements include.

Borough Manager Scalise explained that it includes a small portion of sidewalk on the bridge on Birch Street.

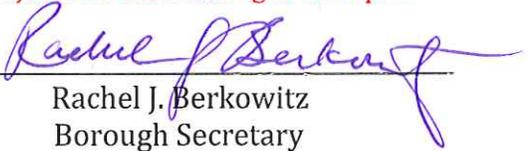
**The motion carried unanimously.**

**COUNCIL, MANAGER and MAYOR COMMENTS and ANNOUNCEMENTS**

Borough Manager Scalise reminded everyone that the Borough's next newsletter will be electronic and encouraged everyone to email Rachel Berkowitz or call the Borough office to sign up to receive the e-newsletter via email.

**ADJOURNMENT**

There being no further business, President Mercomes adjourned the meeting at 9:16 p.m.

  
Rachel J. Berkowitz  
Borough Secretary