

OFFICIAL MINUTES February 18, 2020

The Regular Meeting of February 18, 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 Rosa Moore
Councilmember LaToya Myers
Councilmember Peter L. Waterkotte
Councilmember Mayra Zavala

Mayor Matthew Fetick
Borough Manager Joseph C. Scalise

Absent *Councilmember J. Douglas Doerfler*

ADOPTION of AGENDA

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

It was moved by Councilmember Myers to amend the agenda by moving Items #4, #8 and #12 from Action Items to Consent Items, seconded by Councilmember Moore.

Councilmember Waterkotte asked for the reason to move the items from Action to Consent Items.

Councilmember Myers stated the items should be moved from the Action Items because they do not require debate and therefore should come under Consent Items.

The motion carried unanimously

President Mercomes called for vote to adopt the Agenda as amended.

The motion carried unanimously

PUBLIC COMMENTS

John Thomas, 406 South Broad Street, commented that we spend a lot of time talking about low income housing in the Borough and noted the only open space we have to build is the NVF site. Mr. Thomas believes low income housing should be built in Kennett Township because they have

the space to accommodate such projects. He shared his hope that Council does the right thing with zoning and really considers the residents of the Borough.

Charla Watson, 523 Magnolia Street, shared her opinion that Council made a good choice at the last meeting regarding the overlay. She noted her frustration with building big high-rise apartment buildings, as she believes people who rent apartments will not remain in the Borough long term because there are no affordable homes for them to purchase. She feels we need mid-priced housing for people who want to invest and stay in the Borough. Ms. Watson believes developers are buying houses and flipping them for too much of a profit and she would like to see a moratorium on the conversions of larger homes into multiple apartments. She would also like to see Habitat for Humanity homes built in the Borough like they have built in West Chester and are currently building in West Grove.

Luis Tovar, Chair of ACOLA, noted their meetings are held the second Tuesday of the month and introduced Dr. Louise Bingham Bennett, who has been attending meetings regularly. He noted that alongside her career in the medical field, she has also found time to work with refugees. He noted Dr. Bennett has shared her life and experiences in her book, of which he gave a copy to Council. He also noted that ACOLA has proposed a resolution for Council regarding refugees and explained that being a refugee does not mean the person is a tax on the government budget, as refugees are usually brought in through their families, private organizations and churches.

Louise Bingham Bennett thanked Council for welcoming her to this meeting. She noted we are all refugees and immigrants in America and shared that she attends meetings with ACOLA and La Comunidad Hispana and resides in Kennett Square.

Jess Casson, 545 Hazel Avenue, for the vision that Council has for Kennett Square and how we get input from the people you represent to support that vision. She noted that 200 plus people will move into new apartments on Millers Hill and there is no plan for how people will get into and out of Kennett Square. She asked how to manage what that vision looks like when you do not have a full understanding of the effects of what is currently being built. Ms. Casson asked that Council consider a longer-term vision and put policies in place for a certain amount of development over a specific time frame.

CONSENT ITEMS

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

- Minutes of February 3, 2020.
- Bills that were paid since the last Council meeting.
- Vision Partnership Program (VPP) Grant Commitment Letter for Parking Study
- StanAb SDDL Extension per MPC
- Temporary Use Zoning Permit Extension for T-Mobile's Cell on Wheels
- Passport Parking Enforcement Software Contract

REPORTS

PRESIDENT'S

President Mercomes reported that Councilmember Moore was appointed to the Personnel Committee and Councilmember Doerfler, will serve as the Chair; Councilmember Myers is appointed to the Human Relations Commission; Councilmember Waterkotte will continue on the Finance Committee; Councilmember Zavala was appointed to the Municipal Relations Committee and Councilmember Cramer will continue on the Fire and EMS Commission.

MANAGER'S REPORT

Joe Scalise, Borough Manager submitted a written report that was included in the Council meeting packet. In addition, he shared that the Garage expansion is going well, the crane was in and out quickly over a two (2) week process with minor issues reported. He commented there will be more interruptions when it comes time to do concrete and grading work, and as soon as we know the information, we will let the public know. Borough Manager Scalise noted he has a potential consultant lined up for Strategic Planning in mid to late spring who comes very well recommended and has worked with La Comunidad Hispana and Historic Kennett Square.

FINANCE COMMITTEE

Councilmember Waterkotte shared that the Finance Committee met on Friday, February 14, 2020 and noted the following:

- Finance Committee meetings are once a month and open to the public;
- Reviewed minutes and financials;
- Received a revolving loan final payment;
- Very pleased with the change orders for the parking garage, communication with the contractor has been fantastic and on budget.
- Copies of the Borough's credit card policy are available for anyone who is interested;
- We reviewed the final 2019 budget numbers, which are on budget and we were able to put away \$80,000.00 into reserves;
- We made an official recommendation to reduce the cost of the quarterly trash bill for residents by \$5.00 per can;
- We received our first revenue check from the electric charging stations and those revenues will go into the parking fund; and
- We discussed the idea of changes to parking and to fee in lieu of parking; a fee schedule will be presented to Council. In the near future.

Councilmember Myers requested that since there is only one (1) Councilmember on the Finance Committee, that all Councilmembers receive the complete packet from the Finance Committee meetings.

PERSONNEL COMMITTEE

Councilmember Moore reported that they finalized the Borough Manager's description.

PUBLIC SAFETY and INFRASTRUCTURE COMMITTEE

Mayor Fetick reported that a few residents attended the meeting on February 5th to talk about their specific traffic concerns; one on Sycamore Alley and one on Juniper Alley that are already being followed up on by the Public Works Department and the Police. He shared we are struggling with standardizing our major crosswalks because until we comply with all of PennDOT's recommendations, (mostly about signage), they will not consider further changes. He noted it is a frustrating situation because we have identified five (5) high traffic crossings that we would really like to address with actuated pedestrian crossings and we are trying to get the first one right. He advised we will comply with PennDOT's permit and then go back to them for additional help.

POLICE DEPARTMENT

Chief Holdsworth submitted a written report that included in the Council packet.

FIRE COMPANY

Chief Mitchell submitted a written report that was included in the Council packet.

KENNETT FIRE and EMS REGIONAL COMMISSION

Councilmember Cramer acknowledged a new member of the Commission, Eden Ratliff, the new Manager of Kennett Township. He advised there was discussion about ambulances again. Councilmember Cramer noted that the Commission is focused on next year's budget and ensuring that we have ways to move forward after the end of the three (3) year agreement.

ACTION ITEMS

CONSIDER BOROUGH'S INTERVENTION in the STANAB LP PROJECT APPEAL

Russel Drumheller, Code Enforcement Officer explained that StanAb has appealed the Zoning Hearing Board decision to the courts and in order for the Borough to retain its right to become a party to the case, the Borough will have to authorize our solicitor to intervene. He noted this is merely preserving our right and Council can determine later whether it wants to choose a side or remain neutral.

President Mercomes noted that if we approve this intervention then all we are doing tonight is authorizing our Solicitor to file the papers with the Court of Common Pleas to preserve our right to be a part of that hearing.

It was moved by Councilmember Cramer authorize the solicitor to intervene in this matter and move forward with the StanAb LP Project Appeal; seconded by Councilmember Myers.

Councilmember Cramer believes this is important to the Borough and shared that he had communicated with both Mr. Abdulah and Mr. Stancato prior to the appeal but has discontinued his communication since the appeal. He believes it is crucial that we continue to engage in the process.

PUBLIC COMMENTS

John Thomas recommends Council approve this; we should always have a seat at the table with representation. He also stated that no member of Council should be talking to a developer.

Charla Watson does not believe that we should not be working through things with developers; if you have said “no” to something, you have made your decision.

The motion carried unanimously.

CONSIDER STANAB’S REQUEST for a ZONING TEXT AMENDMENT – STEEP SLOPES

Russel Drumheller explained that one of the provisions of the ordinance is the steep slopes. He stated that StanAb filed a petition on February 7, 2020 to make changes to the text in the zoning ordinance regarding steep slopes to permit construction and disturbance. He noted that tonight, Council can approve to move the proposed text amendment forward to the Planning Commission or do nothing at all.

Mr. John Jaros, the Solicitor on behalf of StanAb LP, shared they were disappointed when their application was denied and looked for possible alternatives to move forward, one of which is to apply for an amendment to the Borough Code, which has certain prohibitions against steep slopes. He noted that municipalities try to protect them, but also explained there is no exception for man-made steep slopes for development. Mr. Jaros noted another option, which is an amendment to make an exception, since another development in the Borough, Magnolia Place, experienced the same issue, although their application was approved, while the Zoning Hearing Board (“ZHB”) opted not to approve the request from StanAb. Mr. Jaros asked Council to move forward with the proposed amendment, which would then go to the Planning Commission for their recommendation and back to Borough Council for their vote.

It was motioned by Councilmember Waterkotte to consider the request for a Zoning Text Amendment for Steep Slopes; seconded by Councilmember Moore.

Councilmember Waterkotte commented this vote is not a decision to start the work, but to send this possible amendment to the proper Committee to see if they feel it is appropriate.

Councilmember Moore commented that one of the concerns with the text amendment is the ripple effect it could create. She asked if sending it to the Planning Commission will clarify questions for other development in town; and posed what happens to the lawsuit if we do not move the amendment forward.

Mr. Jaros noted that if Council chooses not to move forward tonight, it will limit StanAb’s options and they will have to pursue the appeal in court. He noted that if Council approves it, the text amendment will move on to the Planning Commission, who will then give a recommendation to Council. He advised the Council will continue to be in control of this situation.

President Mercomes commented that if we move the text amendment forward, there would be no reason for StanAb to pursue their appeal.

Mr. Jaros agreed that yes, if Council moves forward and the amendment were to be ultimately approved, there would be no need to pursue the appeal.

Councilmember Myers commented that steep slopes is one of multiples issues listed on the appeal.

Mr. Jaros acknowledged that steep slopes is just one of the issues listed in the appeal, but we believe the other issues can be addressed from an engineering perspective.

Councilmember Cramer commented that this is a matter of a broader principle that speaks to erosion, environmental protection and water quality. He advised that manmade versus natural steep slopes is complicated and he does not see this as something that should move forward to the Planning Commission because of the broader implications.

Tony Stancato commented that control still lies with Council to create this ordinance. He noted there is an unintended consequence if Council ignores this issue, essentially, binding your hands for future projects with the same issue and you will not be able to develop any property that has steep slopes. He believes this is a textbook case, as the property was altered to create a parking lot and has a manmade slope. Mr. Stancato shared that natural slopes do need to be preserved, but if you are working with a property that already has a manmade slope, the slope should be looked at differently.

Councilmember Waterkotte commented that the lot does have an unattractive manmade slope and to do nothing in this situation does not make sense. He suggested we continue the discussion by moving this along to the Planning Commission.

Mr. Drumheller advised that the Borough's current ordinance does allow us to disturb steep slopes and we will be able to continue to develop, according to a percentage of disturbance.

Mr. Drumheller noted that the amendment we need to figure out is really the percentage of the slope we are willing to allot to be disturbed.

Councilmember Cramer commented that the issue is stability of slopes, erosion and the altering of steep slopes, whether manmade or natural, and if disturbance results in the degradation of water quality and erosion. He offered an amendment as follows:

It was motioned by Councilmember Cramer to request advice from the Planning Commission on the costs and benefits to altering the steep slope measures in the Borough as a whole; seconded by Councilmember Myers.

Councilmember Cramer noted that the point is not to send the text amendment forward because it focuses the attention on the StanAb project rather than the issue as a whole. He believes we have a Planning Commission that can do the research and give us their advice and recommendations.

Councilmember Myers advised this option allows us to get more information and address staff concerns. She does not feel we have enough information to move this text amendment forward at this time.

Mr. Jaros shared that their proposal was made as a suggestion, but it is not the only possibility and welcomed Councilmember Cramer's suggestion.

Councilmember Waterkotte noted that this option is more than fair and a great idea since no one on Council is an engineer or a developer and we need guidance.

PUBLIC COMMENT

John Thomas commented the first thing Council should do is vote on the amendment. He suggested that StanAb is trying to go around the ZHB's denial and Council should not help them.

David Teel, 620 Linden Circle, commented that he has a postcard book of pictures of Kennett Square from the late 1800's and shared that what we are calling a man-made slope was originally a pasture. He offered to email copies of the pictures to Council.

Chris Mazzoulo, 611 West Cypress Street, suggested Council let this issue go through the appeal system with the Court of Common Pleas because this topic has already been debated.

Kathleen Caccamo, 240 North Washington Street, suggested Council stop changing the rules as they go along and let this go through the Court of Common Pleas. She believes Council should listen to the ZHB's decision.

Charla Watson suggested that Councilmembers should become more educated on the rules. She commented we are talking about manmade versus natural steep slopes, meanwhile the whole town is built on a natural steep slope. She feels Council needs to listen to the ZHB.

Tony D'Otavio, 516 South Street, commented that one of the options was to take no action on this issue and wonders why Council is allowing developers to come in and push them around.

Councilmember Myers shared that our solicitor did give us input on manmade versus natural steep slopes and stated there are municipalities that do find a way to create definitions for them, which is why she is in support of the amendment, to see if we can come to agreement.

Councilmember Waterkotte asked everyone to please be kind because we are all in this together. He advised that we appreciate comments that are respectful, and we are available outside of this room to talk with you further. He believes that we need to look forward into this matter.

Councilmember Cramer commented that the ZHB rules on the Code as it stands, while a text amendment changes the rules. He noted that the Planning Commission advises us on rule changes and he believes sending the amended motion to the Planning Commission is the reasonable course of action.

President Mercomes called for the vote on the amendment to the original motion.

The motion carried unanimously.

President Mercomes called for the vote on the main motion.

The motion carried unanimously.

CONSIDER VPP ZONING AMENDMENT PROCESS

Borough Manager Scalise explained that at the last meeting, Council did not approve sending the draft zoning amendments to the Planning Commission, however no direction was given on what to do with the draft amendments and staff is looking for direction from Council. He asked if Council is interested in content amendments, or process amendments if Council has ideas on how to get the public involved. Manager Scalise noted we have members from the County Planning Commission in attendance, Susan Elks and Kevin Myers, who can speak to the process and what happens with the grant if we choose not to move forward. We have until April to either adopt something or ask for an extension for the grant.

President Mercomes explained this is a general open discussion about the VPP Zoning Amendment process, as she thinks there is much to consider.

Councilmember Waterkotte shared his confusion over not moving the VPP Amendments forward to the next step in the process and the possibility of letting go of all the work that has already been done.

Councilmember Cramer feels the question at hand is did the task force and consultant do the job we asked them to do. He shared that Council voted on the vision for the six sites, five of which we supported. He argued that the job we handed the task force was to take the vision and turn it first into principles and then into a framework. Councilmember Cramer feels the job we gave them was clear, and we never did say yes, we are interested in altering our town to fit traditional neighborhood design, or have a design review board, among other issues. He believes the job we gave them should have triggered a series of discussions about the principles, but instead, we received a finalized product that we did not ask them to create.

President Mercomes shared her concern over the Act 247 process of public input and when she asked about it at the last meeting, there was not a concrete plan in place for the public input.

Councilmember Cramer advised there are two (2) options, to take no further action, which is his preference, or to take apart the issues and get more public input at Council meetings.

Nate Echeverria, Director of Economic Development, advised that what we have now is a draft of the zoning rewrite and no one is 100% happy with it; staff needs to look at it further, the public needs time to review. He shared that in the current schedule, we have February through December 2020 to have public meetings on the draft document, send it to the Planning Commission and the Historic Review Board. He noted we relied on the consultant we hired and now we need to begin the public discussions.

President Mercomes asked for the plan for the public discussions.

Mr. Eccheveria noted that the Planning Commission should have the first review and we can rely on them to help us roll out the public outreach process.

Councilmember Waterkotte suggested that the public process should open now so that we can move forward with the conversations.

Councilmember Cramer advised that the Planning Commission has come to Council asking what it is Council wants them to do.

Councilmember Moore asked what this process look like at other municipalities.

Susan Elks, Director of the Community Planning Division of the Chester County Planning Commission, shared that zoning changes are always difficult and there is a lot of growth pressure in the area. She noted the County has interacted with the Borough on the Comprehensive Plan which was adopted in 2003 and funded an economic development study to look at what the market was bringing to the Kennett area. Following that, the Township and the Borough came back to the County to look at how to respond to the growth within the regulatory scope. She believes that zoning is critical and difficult, but at some point, you have to move from policy to details, which is where the Borough sits right now. She shared we are seeing this across Chester County due to growth and developers are responding to the market and to people. Ms. Elks stated there was a scope of work to look at zoning and regulatory ways to respond to growth and it left the finer details up to Council. She noted that Kevin Myers was assigned to work through this process with the task force and the contract ends at the end of April.

President Mercomes asked if we can we schedule some public meetings before it goes to the Planning Commission, to look at specific issues and help the public understand the ideas.

Ms. Elks commented that the standard would be to send it to the Planning Commission and let them shepherd it through to the public. She advised that currently the task force holds the document and the Planning Commission makes a recommendation to Council.

Mr. Eccheveria stated that Kennett Township moved it forward to the Planning Commission and the Zoning Officer to transition into the next phase.

Councilmember Cramer commented that the taskforce was never named by this Council. The process should have been policy turned to details and things have been turned into detail that Council never voted on. He noted that we never agreed to traditional neighborhood design, the stakeholders never included Council and we never signed off on the policy, which should have come to a vote at Council.

President Mercomes asked if there is a way to get a promise of a complete public presentation that would allow us to receive better public opinion.

Mr. Echeveria commented that he cannot make that kind of decision, but he is sure that we can come up with a better public process that is more robust and provides more feedback. He noted that the first step is to go to the Planning Commission and plan how roll this out for the public.

It was motioned by Councilmember Cramer to direct the Borough Manager, in conjunction with other partners, to prepare a policy resolution detailing those assumptions underlying the proposed amendments for consideration by Council; seconded by Councilmember Myers.

Councilmember Cramer noted we can go back and make policy resolutions around the principles to move forward in a focused way.

PUBLIC COMMENT

John Thomas commented that Council does not have to ask the county if they can have a public meeting. He feels we should see what the recommendations are in the Township since it completely surrounds the Borough. He believes we do not have many plots available for building

and they should be mixed use. He also noted that all of the information should be available online so that people can comment even if they cannot attend a meeting.

Charla Watson commented that Borough citizens never had involvement in this project. She believes that you cannot fix a skewed process when it was skewed from the beginning.

Jess Casson suggested that it does not sound like there is a good feedback process and she wants that on a variety of topics, because there are a lot of people who want to have public input.

The motion carried unanimously.

CONSIDER APPOINTMENTS to the HUMAN RELATIONS COMMISSION

Stephanie Oyler explained that the Ad-Hoc Human Relations Committee was set up to recruit members for the Human Relations Commission and we have been meeting since October. The recommendations to the Human Relations Commission are Susan Hankin, Marisol Tackett, Franco DiCarlo and Stephanie Oyler.

It was motioned by Councilmember Waterkotte to approve the Four (4) appointments to the Human Relations Commission as presented; seconded by Councilmember Zavala.

Councilmember Waterkotte expressed his thanks to the group for the commitment to the Human Relations Commission and for all of their work starting up the Commission.

PUBLIC COMMENT

There were no public comments.

The motion carried unanimously.

President Mercomes congratulated Stephanie Oyler, Susan Hankin, Marisol Tackett and Franco DiCarlo as the first members of the Human Relations Commission and shared that Councilmember Myers will sit on the Commissions. She noted Ordinance calls for the Mayor to select the Chair of the Commission

Mayor Fetick appointed Stephanie Oyler as the Chair of the Human Relations Commission and thanked her for her time and effort in the creation of the Commission.

CONSIDER PARKING RELIEF FOR KENNETT BREWING COMPANY

Russel Drumheller, Code Enforcement Officer, explained that Kennett Brewing Company sent a letter requesting parking relief because they are expanding by 60 seats but have no property to provide the additional necessary 15 parking spaces. Mr. Drumheller suggested since they are located so close to the public parking lots, he thought it best to bring their request before Council.

It was motioned by Councilmember Cramer to grant parking relief to the Kennett Brewing Company as presented; seconded by Councilmember Moore.

Councilmember Cramer commented it is important that these establishments include as much dining as possible and to be careful about their customers driving intoxicated.

Mayor Fetick commented that the fee in lieu is \$470 per space, but it is only a one-time fee. He feels we need to get the parking study done and find better ongoing revenue streams.

PUBLIC COMMENT

John Thomas commented that KBC employees should be required to use the parking garage.

Mr. Drumheller commented we make the recommendation to all of the businesses in town, but it is a very difficult rule to enforce.

The motion carried unanimously

CONSIDER BOROUGH MANAGER'S JOB DESCRIPTION

President Mercomes explained that our lawyer, Chris Gerber, made us aware of a few discrepancies in the Borough Manager's job description that need to be corrected before Council can take a vote.

It was moved by Councilmember Moore to postpone the vote on the Borough Manager's Job Description until the next Council meeting; seconded by Councilmember Myers.

The motion carried unanimously

CONSIDER APPOINTMENT - JUNIOR MEMBER TO ACOLA, ALONDRA HERRERA

Luis Tovar, Chair of ACOLA, shared that it has been a year since ACOLA's last junior member left for college and they have been looking for a new junior member. He noted ACOLA members are happy to present Ms. Alondra Herrera, who has a bright future ahead of her and hopes to work for the United Nations. He stated that ACOLA members unanimously agreed to bring on Alondra Herrera as their Junior Member.

Ms. Herrera shared that she is a Junior at Kennett High School and her mentor recommended her for ACOLA. She is representing Latinos, immigrants from Mexico. She believes she will bring the youth viewpoint to the Commission.

It was motioned by Councilmember Zavala to approve the appointment of a Junior Member of ACOLA, Alondra Herrera as presented; seconded by Councilmember Cramer.

Councilmember Waterkotte expressed his thanks to Ms. Herrera for taking on such an important role and shared he is excited to see a young person become involved.

Councilmember Cramer shared he is grateful to Ms. Herrera and shared his belief that our future is in the hands of the youth. He encouraged Ms. Herrera to speak her truth.

President Mercomes stated she is proud to see you Ms. Herrera step up into this position.

Councilmember Zavala noted Ms. Herrera is a wonderful asset to the community.

PUBLIC COMMENT

There were no public comments.

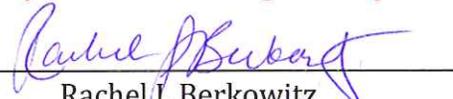
The motion carried unanimously.

COUNCIL, MANAGER and MAYOR COMMENTS and ANNOUNCEMENTS

There were no comments or announcements.

ADJOURNMENT

There being no further business, President Mercomes adjourned the meeting at 9:50 p.m.



Rachel J. Berkowitz
Borough Secretary