

## OFFICIAL MINUTES March 1, 2021

The Regular Meeting of March 1, 2021, of Council for the Borough of Kennett Square was called to order at 7:00 p.m. via Zoom Video Conference 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*

*Mayor Matthew W. Fetick*  
*Interim Borough Management Team – Chief William Holdsworth*

### ADOPTION of AGENDA

It was moved by Councilmember Doerfler to approve the Council meeting agenda; seconded by Councilmember Moore.

The motion carried unanimously.

### PUBLIC COMMENTS

John Thomas, 406 South Broad Street commented that at the last meeting, he heard something disturbing from the Chief about the snow on the sidewalks. He commented that he is older and cannot do the shoveling anymore. He suggested that the Borough gather a list of seniors who need help, possibly the Mayor could contact the school or ACOLA for teenagers who could help seniors. He does not expect the police to shovel the sidewalks, but he is asking for help, not that he does not want to shovel, he is not capable anymore and there are many seniors in the Borough who are in the same situation.

Donna Elliott, 511 State Street, shared that she had to shovel out the end of her driveway and sidewalk three (3) times and luckily had a snow blower. She believes this to be a real safety problem.

Doug Hayes, 611 Magnolia Court, commented that his community has an agreement with a group for snow removal and offered to reach out to them to see if they can help. Mr. Hayes also noted that his community would like an update on the Victory fire. His HOA believes they may share utility lines from that building. He also noted that he understands we will be revisiting the parking on D Street and would like to be kept updated on the future of parking availability. Mr. Hayes thanked Councilmembers and Borough staff for all that they do.

## **CONSENT ITEMS**

The following Consent Items are deemed accepted with the approval of the agenda:

- Approval of Minutes – February 16, 2021
- Approval of Bills
- Approval of Resolution – Disposition of Records

## **REPORTS**

### **PRESIDENT'S**

President Mercomes did not present a report tonight.

### **MANAGER'S REPORT**

Chief William Holdsworth reported that the Interim management team continues to meet, the pension audit is complete as of February 26<sup>th</sup> and our independent audit will begin April 6<sup>th</sup>. He noted that the information gathering for the upcoming energy contract renewal has begun. He reported that the Borough has three (3) full time positions open, Borough Manager, Codes Department and Streets Department. Chief Holdsworth stated that we are moving from Swift 911 to the Ready Chesco Platform for communication with residents in the effort to reach more people and we will send out more information on how residents are can transfer over to the new platform.

Chief Holdsworth highlighted an issue from the Police Department, that over the last four (4) months, there have been thefts and car thefts in the Borough. He reminded everyone to please remove valuables from vehicles, most importantly your keys, and lock your car. Additionally, the Crimewatch Facebook page has a security camera registry where you can register your own outdoor security camera and the Police have been able to use camera footage to help find individuals and cars involved in thefts. He noted that we need the community to work with the Police Department and to help to protect each other.

Chief Holdsworth also shared that we are working to diversify the police departments in Chester County, and there are currently three (3) scholarships available for Act 120 due in April. He noted these scholarships will provide a fantastic opportunity to help diversify the Southern Chester County police force.

As we all know, the Chief commented, it has been a uniquely snowy year and he assured everyone that no one has been cited or penalized this year. He shared that we are working to update our ordinance to make a better process. He also shared that the Chester County Fire Marshall has not provided us with the determination of the cause of the Victory explosion and fire as of today.

## **FINANCE**

Councilmember Waterkotte reported that the Committee met this morning, Monday, March 1, 2021 at 9:00 a.m. He shared the Committee:

- Reviewed bills and monthly financials;
- Held an Executive Session to discuss a real estate issue;
- Discussed a parking garage reduction request from Genesis;
- Discussed the purchase of budget software, a time sensitive purchase with a 50% off deal right now; it is a good time to update and become more streamlined.

**BOROUGH MANAGER SEARCH COMMITTEE**

Councilmember Doerfler reported that after the last Council meeting, the Committee submitted edits on the profile brochure that was sent to SGR. Unfortunately, SGR is located in Texas and was delayed on the work due to the weather. He reported that he and Councilmembers Zavala and Myers met this past week with Doug Thomas of SGR to work through the edits of the profile brochure and will finalize it this week.

**ACTION ITEMS****Administration****COMMUNITY SHRED EVENT – SATURDAY APRIL 10, 2021**

Rachel Berkowitz, Borough Secretary, shared that last year's Community Shred event, sponsored in conjunction with the Library, was cancelled due to COVID. This year, the Library and the Borough would like to go ahead with this event, using COVID safety practices. The event is free to residents and will be located in the lot behind the Library.

**Councilmember Waterkotte motioned to approve the Community Shred Event on Saturday April 10, 2021; seconded by Councilmember Zavala.**

**PUBLIC COMMENTS**

Doug Hayes, 611 Magnolia Court, asked where people can find out more detailed information on the shredding event.

Ms. Berkowitz shared that information and instructions for the shredding event will be posted on the Borough's website, the library's website and on Facebook. She noted that typically, in years past, we have asked people to put their paper in boxes which will be dumped into the shredding truck, and you take your boxes home. The shred event will run from 9 a.m. to 12 p.m.

President Mercomes called for the vote.

**The motion carried unanimously.**

**HISTORIC ARCHITECTURE REVIEW BOARD (HARB)**

Andrew Froning, HARB Chair, reported there were two (2) applications that HARB reviewed for their Certificate of Appropriateness (COA) this month. The first is for new signage at Letty's Tavern, in the location of the old Kennett Inn at Broad and State Streets. Mr. Froning noted this was a straightforward application changing the existing signs, which is fitting and the HARB recommends they receive a Certificate of Appropriateness (COA).

**It was motioned by Councilmember Cramer to approve the COA for the new signage at Letty's Tavern; seconded by Councilmember Zavala.**

**PUBLIC COMMENTS**

John Thomas, 406 South Broad Street, asked if they can keep the old Kennett Inn sign for historical preservation.

Mr. Froning noted that he will ask about the old sign and let the public know.

**The motion carried unanimously.**

Mr. Froning explained that the second application was for 123 West Mulberry Street for the demolition and removal of an existing two-story carriage house, typical of what is found in the alleys of Kennett Square, for which the HARB did not recommend issuing a COA. He noted this applicant received HARB's approval in the Spring of 2020 for the renovation of the same building but ran afoul of the parking ordinance and while they did receive a partial waiver for one (1) parking space, they would still need to provide one (1) parking space. Mr. Froning explained that their new application indicates they want to demolish the current building and reconstruct it further into the property to make more room for the parking spot. He suggested that our interpretation of the HARB ordinance does not provide for demolition for convenience sake. He noted the building is very typical of those found in the alleys of Kennett Square and has been determined to be safe. Mr. Froning shared that they did not have a rationale to allow for the demolition of the building and so the HARB voted not to recommend issuing the COA.

Councilmember Doerfler commented the issue here is that the renovation was going to cause a change in use, which then added the parking requirement issue. He noted that if they had renovated the building in the current use, there would not be a parking issue.

Mr. Froning noted that is correct and shared that alternative ideas were suggested, but the options are not necessarily budget friendly. He explained that one of the reasons for the formation of the HARB was because people were demolishing buildings for various reasons.

Councilmember Cramer stated he attended this HARB meeting and wanted clarification on whether the decision to deny the COA was partially based on the fact that it was an incomplete application.

Mr. Froning noted that it was a factor, but it was not the primary reason. He commented that the building in question was used for storage, but the change to residential use caused the zoning change and new use. Mr. Froning explained that the HARB offered options other than demolition to the applicant. He further explained that the HARB did not have a justification for allowing the demolition.

Councilmember Cramer commented that the meeting was really a like discussion between all parties and he suggested that we should consider letting the applicant come back to make a better argument.

Mr. Froning stated that the purpose of the HARB is to enhance the integrity of the architecture of the Borough and as much as possible, and we try to assist property owners by giving them tools and suggestions for renovations. He noted this is a case where we made the argument that you could save the building and do something different rather than demolish the building.

Councilmember Cramer shared that he appreciates the degree to which the HARB always works with property owners. He noted that if we deny this COA, we have to inform the applicant in writing for the reason of the decision and asked how would we go about writing that.

Borough Solicitor Crotty explained we have 15 days from the date of this vote to put in writing the reasons for denial, including the findings of fact, most of which would be based on the recommendation that came from the HARB. itself. Mr. Crotty noted that we also have to give that not just to the PHMC, but to the applicant as well, because if they disagree with it, they then have the opportunity to appeal it to the Chester County Court of Common Pleas. If we do not act, the COA is considered approved.

**Councilmember Cramer made the motion to deny the Certificate of Appropriateness for 123 West Mulberry Street pursuant to the recommendation of the HARB, except to the extent that the applicant submits an extension request of the chapter 25 deadlines, in which case that extension request shall be granted; seconded by Councilmember Doerfler.**

Vice President Moore thanked Councilmember Cramer for his explanation of the situation, noting that we are basically giving them the option to try again within our legal boundaries.

Discussion continued on the issue regarding the Council's duty to the HARB Ordinance, the type of help offered to homeowners by the HARB, the possibility of the owner going to the Court of Common Pleas, etc.

#### **PUBLIC COMMENTS**

John Thomas, 406 South Broad Street commented that he has never heard of a more biased Council fighting for a homeowner. He feels that people should follow the rules, they went to the Zoning Hearing Board and got relief from two (2) parking spots down to one (1) parking spot. And they need to make their choices. He does not believe this is Council's decision, it is the homeowner's decision and noted that the HARB is just trying to protect the building.

Borough Solicitor Crotty commented that it is this Council to make this decision from the prospective of 'how do we maximize the strength of the position that Borough Council wants to take'; and that is to make sure that it is not the applicant that makes the decision, it is not the judge on appeal that makes the decision, but it is Council that makes the decision. He explained that right now, the decision by Council would be to disprove the application but we leave the window open for the applicant to come back with additional information they feel is appropriate to consider, we permit that, rather than letting the court make the decision for us.

President Mercomes called for the vote.

**The motion carried unanimously.**

**Finance Committee****KAU LITTLE LEAGUE REQUEST for PARK/REC FEE in LIEU OF**

Lisa Ionata, Finance Director, explained that KAU requested the waiver of one Water and Sewer EDU for the Little League Park to connect to the Borough's utility service. The Finance Committee suggested KAU request the funds (and be reimbursed) from the Park and Rec Fee in Lieu Of account, instead of waiving, as it can be used for expenses such as this. She asked for Council to ask for a six (6)-month time limit on the execution because the property is actually not owned by KAU and they have to get approval from the property owner to have this connection made, and that property owner is responsible for submitting the application, and also will receive the bills in the future for all of the usage of the water.

**Councilmember Cramer motioned to approve KAU's Park and Rec Fee in Lieu Of reimbursement for one Water and Sewer EDU, to include a six-month time limit on execution; seconded by Councilmember Waterkotte.**

Councilmember Cramer commented this is a good use of the money, which is exactly what Fee in Lieu Of is supposed to do, rather than a waiver.

Matt Patterson, President of KAU, commented that the fields are used by our league and the high school and this is something that will help us greatly. He shared that they have been in touch with the landowner. He noted they are appreciative of this assistance and thanked Council for the consideration.

**PUBLIC COMMENTS**

There were no public comments.

President Mercomes called for the vote.

**The motion carried unanimously.**

**AMENDMENT to RESERVE FUND POLICY**

Lisa Ionata, Finance Director explained that concerns were raised in Finance Committee regarding two (2) aspects of our current Reserve Fund Policy. She noted these concerns were related to resolving operational cash flow shortfalls in the first quarter of each year, as well as ensuring compliance with applicable Enterprise Fund Statutes. Upon review with our Solicitor, the provided amendments address those concerns.

**Councilmember Waterkotte motioned to approve the amendments to the Reserve Fund Policy; seconded by Councilmember Cramer.**

Councilmember Waterkotte thanked Ms. Ionata for thinking outside of the box and thanked Mr. Crotty for his verbiage, noting this a testament to being fiscally responsible.

Councilmember Cramer commented that he believes this is the kind of culture we should be pursuing as a Council, and he brought up one issue with the water and sewer funds and setting the rates in such a way as to bring in money or not. He noted this is an issue that has been going for over 16 years.

**PUBLIC COMMENTS**

There were no public comments.

President Mercomes called for the vote.

*The motion carried unanimously.*

**AMENDMENT to the 2021 FEE SCHEDULE**

Lisa Ionata, Finance Director explained that minor changes to the fee schedule to include clarifying late fees for water and sewer utility bills to begin accruing after 30 days from the bill date. The amendment also includes additional time for payment from other governmental entities (excluding pool water) based on billing/payment process for those entities being more complex. She noted that all the update does is clarify the late fees.

*Councilmember Doerfler motioned to approve the amendments to 2021 Fee Schedule; seconded by Councilmember Myers.*

**PUBLIC COMMENTS**

John Thomas, 406 South Broad Street commented that we give outsider entities extra time to pay their utility bills but you do not give everyday people in the Borough the extra time. He noted that we are usually given 30 days to pay our bill, but sometimes the bill does not come until the 5<sup>th</sup> or even the 9<sup>th</sup> of the month which can really hurt people. He questioned why the Borough would give outside entities more flexibility than the Borough residents.

President Mercomes called for the vote.

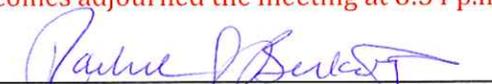
*The motion carried unanimously.*

**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 8:34 p.m.*

  
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Rachel J. Berkowitz, Borough Secretary