

OFFICIAL MINUTES June 7, 2021

The Regular Meeting of June 7, 2021, of Council for the Borough of Kennett Square was called to order at 7:18 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

President Mercomes stated that there was an Executive Session was held today at 6:15 p.m. to discuss a legal matter.

ADOPTION of AGENDA

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

President Mercomes called for the vote on the agenda.

The motion carried unanimously.

PUBLIC COMMENTS

John Thomas, 406 South Broad Street, very concerned about the sewer situation and he has many questions. He would like to see the contract with Kennett Township and believes we need a forensic audit. He commented that Council should put a moratorium on until we have the finances secured to upgrade the plant and pipes. He blamed the former Borough Manager and Council for not having enough oversight, noting that this has been going on since 2018, maybe longer, and our last Borough Manager told us we had no problems. Mr. Thomas stated that if these problems are not fixed soon, he is prepared to go to the Attorney General because the citizens of the Borough deserve answers.

Lynn Sinclair noted that she is here on behalf of the Kennett Heritage Center, 120 N. Union Street to invite and encourage everyone to come out for the Juneteenth weekend, June 18th, 19th and 20th. She shared that the weekend will kick off on Friday the 18th at the American Legion with a lantern making

workshop, followed by an ice cream social, and then a Lantern Parade, at the end of the evening. On Saturday the 19th, we have two speakers also at the American Legion, and four (4) different activities that the Kennett Underground Railroad is putting on at the Heritage Center. She hopes that everyone will come out for the events. Ms. Sinclair also shared that the Heritage Center will be open by July 1st and she would love to see everyone visit and see what the Center has to share.

Charla Watson, 523 Magnolia Street, asked why we are not meeting in person. She believes the time for Zoom meetings is over and the law requires that meetings be held in-person. She also commented that the pavilion going up at State and Broad Streets does not have a permit, she does not believe they are legal and thinks they are detrimental to have in the street, along with the concrete barriers. Ms. Watson commented that in regard to the sewer plant, the Borough sold so many EDUs to Kennett Township, she feels they should be pay for another expansion and anything you plan for the future should be discussed at a public meeting, separate from a Council meeting.

Borough Solicitor Crotty explained the Governor still is allowing us to meet virtually, but we are continuing to monitor the Governor's orders and the Borough is looking for meeting space.

CONSENT ITEMS

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

- Approval of Minutes – May 17, 2021
- Approval of Bills
- Resolution authorizing the Director of Public Works to submit the Traffic Signal Maintenance Agreement

REPORTS

PRESIDENT'S

President Mercomes encouraged everyone to attend the Juneteenth Celebration. She commented that we could not hold one last year, this year we had the funding, and it looks like a very exciting and fun three days.

FINANCE COMMITTEE

Councilmember Waterkotte reported that the Committee met this morning, Monday, June 7, 2021 at 8:00 a.m. He shared that they moved into an Executive Session at 8:15 a.m. to discuss matters regarding the purchase of real estate. In addition, Councilmember Waterkotte noted that the following items were discussed:

- Reviewed bills and monthly financials;
- Reviewed unanswered questions from last meeting;
- Looking into all who hold credit cards and cell phones; Ms. Ionata noted there are no outside credit card users;

Councilmember Cramer explained that approximately \$40,000 was incurred in order to begin to investigate the sewer issues and to monitor flow. It was the opinion of the Committee that these types of

expenses may continue, and he motioned, and it was approved, that the Finance Director may spend up to \$49,999 to take any investigative action that may be necessary to resolve these issues, but that any amount over that would need to come back to the Finance Committee for approval and potentially, if it is a larger amount, it would come back to Council itself.

PERSONNEL COMMITTEE

Councilmember Doerfler reported that the Committee met on May 3rd and discussed the process for the Jr. Councilmember Program applicants. Vice President Moore will work with the Borough Secretary to get the information out to the high school this week since school ends shortly. In addition, the information will also be posted to the Borough's website and Facebook page. Councilmember Doerfler also shared that we are a municipality that receives grants from the Chester County Department of Community Development, therefore, they conduct an annual audit, which was completed on May 25th, 2021. Their recommendation was that we update our Personnel Manual within the next year. He noted that this is something that will likely be delegated to the new Borough Manager.

BOROUGH MANAGER SEARCH COMMITTEE

Councilmember Doerfler reported that the Committee is in the process of conducting live interviews via Zoom with our semifinal candidates. He commented that the hope is to have two or three finalists by the end of this week, who will be coming to Kennett Square on the June 25th and 26th for full interviews with Council, and a chance to meet staff. He noted that once the Committee knows who they will be inviting, we will coordinate with staff, and those necessary to make it a smooth event.

ACTION ITEMS

Administration

SPECIAL EVENT-KENNETT MASONIC HALL ASSOCIATION CHICKEN BBQ, JULY 10

Rachel Berkowitz, Borough Secretary, explained that the Eric Downs, President of the Kennett Masonic Hall Association, submitted a Special Event Application for a chicken BBQ fundraiser at the Masonic Hall at 121 Center Street on July 10, 2021. She noted the application has been reviewed and signed off on by all of the necessary parties, the Fire Company, the Police Department, Public Works and the Interim Management Team.

Councilmember Waterkotte motioned to approve the Kennett Masonic Hall's Chicken BBQ event on July 10; seconded by Councilmember Doerfler.

Mr. Downs explained they have a large pull-behind grill to cook the chicken outside, while the side dishes will be set up inside the Lodge and people will come into the Lodge to take food out through the building. He noted that if there is rain, they have a few large tents they can grill under but people will still pick up their meal through the Lodge.

PUBLIC COMMENTS

There were no public comments.

President Mercomes called for the vote

The motion carried unanimously.

MTF RESOLUTION

Mr. Russell Drumheller, Code Enforcement Officer, explained that what is before Council is a resolution authorizing the filing of an application to the Multimodal Transportation Fund Program, as the applicant and a grantee requesting grant funding from the Commonwealth Financing Authority and designating officials to execute the associated grant documents.

Marie Holland of GMS Funding Solutions explained that her firm has been assisting Square Roots Collective and its efforts to advance revitalization efforts and Kennett Square. She commented that Square Roots is highly supportive of the intermunicipal Kennett Greenway connectors Birch Street and Magnolia Underpass Project, which is aimed at addressing two significant and complimentary segments of the Kennett Greenway, through the creation of a Complete Street along Birch Street in the Borough, as well as the construction of a railroad underpass to be known as Magnolia Underpass in the Township. She noted that Square Roots has offered her firm's grant writing services to advance the intermunicipal application in close coordination with the Borough and Township. She commented that we previously submitted a grant application for this project, and we are hoping that the subsequent application, the subject of tonight's discussion will close the funding gap on this project and allow the project to move forward.

Ms. Holland shared that the Kennett Greenway, is a multimodal pedestrian and bicycle loop, aimed at connecting the greater Kennett community to everyday destinations. Ms. Holland explained that in the Summer of 2020, the Borough partnered with Kennett Township to submit a grant application to the Commonwealth Financing Authority Multimodal Transportation Fund Program, and the subject of the application was completing those two segments, Birch Street and the Magnolia Underpass in the Township. The total estimated project cost for those two combined segments was almost \$2.9 million, and the Borough and Township jointly pursued funding in the amount of \$1,879,520; the Borough pledged to provide match funding for their portion of the project, and the amount of \$600,079,870, which included pledging their \$500,000 and Community Revitalization Program Grant towards their local matching funds, as well as a balance of approximately \$179,870, and the Township also pledged matching funds towards their portion of the project to be completed in Kennett Township. Ms. Holland further shared that in April of this year the Borough was notified of a \$400,000 CFA MTF award. Due to this amount being significantly lower than our original request, we would like the Borough to consider reapplying for the balance of funds in the amount of \$1,479,520 in the current MTF round, which has applications due at the end of July. The amount pledged for matching funds will remain unchanged, and we are expecting award announcements sometime in the Fall of this year. Ms. Holland noted that the Resolution for consideration before Council authorizes the Borough to reapply for the MTF program, request the balance of funds for the project and reiterates the desire to provide matching funds for the Birch Street portion of the project.

Councilmember Moore commented, just to be clear, that this resolution does not require additional funds.

Ms. Holland confirmed that this resolution does not require additional funds, it is just recommitting the desire to keep those matching funds as the pledged amount.

Councilmember Doerfler motioned to approve the Kennett Greenway MTF Resolution; seconded by Councilmember Moore.

PUBLIC COMMENTS

John Thomas, 406 South Broad Street, asked if there is a way for us to avoid any liability for any health-related issues that come from the tunnel? His concern is the possibility of people becoming sick from the over 17-acre dump site next to the proposed Magnolia Underpass.

Borough Solicitor Crotty commented that it is a good question, and it is something he will keep his eye on as the agreements come through to actually authorize the work, but he also commented that we are always subject to someone suing us; whether it will stick or not is the issue and is very fact dependent.

Ms. Holland commented that since this is an intermunicipal application, we would advise that if the funds are awarded and the project moves forward, the Borough would enter into a cooperation and indemnification agreement with Kennett Township. Therefore, putting liability for the Township's portion of the project solely on them, and they would contract for the work for their portion of the project separately from the Borough's contracts for the work on Birch Street.

President Mercomes called for the vote.

The motion carried unanimously.

RESOLUTION AMENDING EMS SERVICE PROVIDERS

Chief Holdsworth commented that the Resolution for Council's consideration is to amend the EMS provider for the Borough to the Longwood Fire Company.

Mr. Matt Eick, commented that this is part of an agreement that was made a few months back with the EMS Regional Commission, the Kennett Fire Company submitted their required 90 day notice to retire their ambulance service, which will take effect on August 1, 2021. The Longwood Fire Company has provided the ALS service to the Borough for quite some time. He noted that the Longwood Fire Company will continue to provide the paramedic service, and as of August 1, will also provide basic life support service that Kennett Fire Company was providing.

Councilmember Cramer motioned to approve the Resolution amending the EMS Serve Providers; seconded by Councilmember Myers.

Councilmember Cramer commented that has been heavily involved with the EMS Commission and shared they have done extraordinary work and that Chief Brady of the Kennett Fire Company believes this deal will allow the Kennett Fire Company to remain alive for the next 100 years.

President Mercomes shared that she spoke with Chief Brady as well, noting he was very pleased with the agreement and believes it to be the best resolution for the Borough.

PUBLIC COMMENTS

There were no public comments.

President Mercomes called for the vote.

The motion carried unanimously.

AMERICAN RESCUE PLAN “ARP” STIMULUS MONEY

Borough Solicitor Crotty explained that ARP was approved back in March, which is Federal money being funneled down to the municipal level, including the Borough and the initial estimate on what we were to receive was \$613,179 and but it was recently revised to \$649,158, approximately \$30,000 more than was initially scheduled. He explained that the Federal and State government have worked out the mechanism for us to first apply for the money, because we have to submit an application to the State Department of Community Economic Development (DCED), and we are very fortunate that Lisa Ionata, Finance Director, was quick to jump on that, because it requires us to submit a lot of paperwork to DCED so the money will be funneled down to the Borough. Mr. Crotty noted that the first half of the money is expected in mid to late June. The second half of the money will come a year from when the first half arrives. He explained that we have a yearly reporting requirement on what we do with the money. Right now, we are not doing anything with the money we are just accepting it, as deciding what to do with the money is a longer-term discussion based on a couple things, particularly the guidance from the final guidance of the Treasury Department which is expected at some point after July 16th. Mr. Crotty explained that we have quite a bit of time to use the money as it must be committed by December 31, 2024 and it must all be spent by December 31, 2026. Right now, the immediate thing we need to do is to ratify and approve the submissions of all the requisite application documents for the Borough's receipt of the ARP stimulus funding, authorizing the Council President, as well as Lisa Ionata, the Finance Director to execute all the necessary documents related to the same.

Councilmember Cramer motioned to authorize representatives of the Borough for the purpose of submitting the application for the stimulus money; seconded by Councilmember Myers.

Councilmember Cramer commented that this does not come right on time in terms of infrastructure that is going to have to be replaced and it will have to be all hands-on deck in terms of finding the money to deal with the sewer system, but it is certainly \$600,000 that we need and can use.

PUBLIC COMMENTS

Charla Watson asked why the lawyer is explaining all of this instead of a Borough Manager, noting that she can understand the use of legal experts in order to understand, but once Council and the Borough Manager have the forms, she expects them to be able to explain the issue to the residents. She expects her Councilmembers to have a better working knowledge of things.

John Thomas commented that we have to start asking developers and builders up front to fix the sewer so their projects can move forward. He commented that he hopes we do not just take the money from the ARP, use it and forget about fixing the problems, both material and legal problems.

President Mercomes called for the vote.

The motion carried unanimously.

Brandywine Battlefield Task Force
KENNETT HERITAGE CENTER MARKER

President Mercomes explained that Lynn Sinclair is here, but the person who is to present this item is unable to be here this evening and she has requested to postpone the presentation to the next Council meeting, June 21st.

Councilmember Doerfler motioned to move this item to the next meeting; seconded by Councilmember Waterkotte.

PUBLIC COMMENTS

There were no public comments.

President Mercomes called for the vote.

The motion carried unanimously.

Civil Service Commission

CONSIDER ACCEPTANCE OF THE CERTIFIED LIST FOR PROMOTIONS

Chief Holdsworth explained that he is asking Council to consider approving the certified list which has been provided by the Civil Service Commission for a promotion to Lieutenant. The current process began with Borough Council charging the Civil Service Commission in November of 2020 and has now been completed as of their last meeting on April 28th. The Commission has generated the certified list for consideration, and he requested that Council approves this certified list for promotion.

Councilmember Cramer motioned to approve the certified list; seconded by Councilmember Moore.

Councilmember Cramer commented that the need for structure at the top of the Police Department came to the fore several years ago and it was pressing issue that we needed to solve. He noted that this is a place where government has succeeded. He shared that he believes the Borough has one of the best Police Chiefs you will find in the country and that he put in place a structure that will keep this police force going into the future. Councilmember Cramer shared that he is happy to be able to help move this forward.

Councilmember Doerfler thanked the Civil Service Commission for all of their work.

Councilmember Myers commended the Chief for keeping this on the radar, sharing that it was something that Council was committed to doing, She commented that she in agreement with Councilmember Cramer. She noted that with respect to the candidate for this promotion, he is an excellent candidate and time and time again this particular officer has shown professionalism, grace and maturity.

Chief Holdsworth commented that this has been a process in the works for over four (4) years and this is just the beginning of the further development of the leadership of the Police Department and there many more trainings and advancements coming for this specific individual member, and he is the strongest person that we have.

PUBLIC COMMENTS

There were no public comments.

President Mercomes called for the cote.

The motion carried unanimously.

Historic Architecture Review Board (HARB)

HARB APPLICATION 207 CENTER STREET GARAGE RENOVATION

Andy Froning, HARB Chair, explained that 207 Center Street is a garage renovation that is needed, is being done appropriately and the HARB recommends that the COA be issued. He also noted that at the last Council meeting, he mentioned two properties that had deviated from plan while they were being built. He commented that both property owners, the HARB, and staff have reached agreements on rectifications of those problems.

Councilmember Doerfler motioned to approve the COA for 207 Center Street; seconded by Councilmember Waterkotte.

PUBLIC COMMENTS

There were no public comments.

President Mercomes called for the cote.

The motion carried unanimously.

Public Works

AQUA AGREEMENT

Rob Moran, Director of Public Works explained that we have an interim agreement with Aqua that ended on June 6 and the agreement before you is a continuation of that agreement for two (2) more years with the same verbiage as the original.

Councilmember Moore commented that when we entered into this agreement with Aqua, there was some concerns. She asked Mr. Moran if he thinks that Aqua is a good partner.

Mr. Moran shared that he Aqua has been a good neighbor, they have been willing to work with us on problems and have alerted us to any issues. He believes they are doing a good job.

Vice President Moore motioned to approve the agreement with Aqua; seconded by Councilmember Waterkotte.

PUBLIC COMMENTS

There were no public comments.

President Mercomes called for the cote.

The motion carried unanimously.

Zoning and Code Enforcement

Authorization of Public Hearing for Zoning -VPP

Russell Drumheller, Code and Zoning Enforcement Officer, explained that what is before you tonight is the request for authorization for a Public Hearing on July 19, 2021 for zoning VPP, which is the Vision Partnership Program. He noted that we started this process about four (4) years ago though a grant from the county to rewrite zoning to benefit economic and community development. The proposed changes have been sent to Council and are also located on the Borough's website under new documents.

Councilmember Cramer motioned to authorize the Public Hearing on the proposed VPP; seconded by Councilmember Moore.

PUBLIC COMMENTS

Charla Watson, 523 Magnolia Street commented that she hopes that whatever Rusty has in his public meeting that it can bring some uniformity and some sanity back to the laws that have govern this town, because whether it be working on infrastructure, whether it be homeowners working on our homes, or a capital project or a private corporate project, she thinks it seems to have no bearings on what our ordinances used to be, and that residents do not know when they changed.

President Mercomes called for the cote.

The motion carried unanimously.

LIBRARY REQUEST – WAIVER SALDO

Russell Drumheller, Code and Zoning Enforcement Officer, explained that we have 3 waivers to the subdivision and land development and a letter dated May 11, 2021 from Register Associate Jim Fritz. The first waiver is section 18-8A requiring a tentative sketch plan. The second waiver is section 18-8B, requiring a separate preliminary plan. And the last one is section 18-19a, requiring that when curving is used along driveways, two (2) feet shall be added to the minimum width of the pavement of 24 feet. Mr. Drumheller explained that the first two (2) waivers are pretty common a sketch plan and a preliminary, which you have before you for later tonight is a preliminary/final plan application. He also noted that the Planning Commission actually discussed the curbing requirement and based on the fact that the library does not

have any larger vehicles heading into that smaller parking lot that you are installing, we figured that would be a good reason to be granting that waiver because it allows more parking on the street without eating up the extra space of an opening.

Councilmember Cramer motioned to grant the waivers as presented; seconded by Councilmember Doerfler.

PUBLIC COMMENTS

Charla Watson shared that she is very concerned over the waivers and the curbing.

Mr. Drumheller explained that instead of making the Library's new parking lot at a 26 foot wide opening, we recommend leaving it at 24 feet as it gains us an extra two (2) feet along Willow Street for parallel parking.

Councilmember Cramer asked if this has been discussed with the Police Department and the Fire Company in respect to the fire apparatus.

Mr. Drumheller commented that since we do not have design drawings yet, they have not had those discussions, but he does not think they will need access into their little parking lot. It is at 24 feet and the fire apparatus should be able to fit.

Councilmember Cramer motioned postpone this item until the Fire Marshall can do a review; seconded by Councilmember Myers.

Mr. Drumheller commented, for the record, the Fire Company and the Police Department have received every set of drawings that we have received to the date and he has not seen a comment come back yet, but he noted that Councilmember Cramer's concern is understood and we will follow through.

President Mercomes called for the vote on the amendment.

The motion carried unanimously 6-0; President Mercomes abstained.

LIBRARY REQUEST - PARKING FEE WAIVER/PARKING AGREEMENT LIBRARY SDLD PLANS

Russell Drumheller, Code and Zoning Enforcement Officer, explained that part of the process and zoning requirement for the library to be built is they need to enter into an agreement with Borough Council to facilitate allowing the patrons of the library to use 96 spaces in the current parking garage, and they have requested a waiver of the fees to the required parking, and our resolution.

Joe Riper spoke about the prior item and commented to Council on the parking agreement, we thought that was the only one open for discussion. The library's plan only has 19 spaces and the Borough requires 96 spaces. He does not believe this should be a waiver because of their current agreement. He believes this to be an ordinance driven need and does not apply to the Library because on average most of the patrons use the library for 15 minutes. The question is what is the fee to be paid.

Borough Solicitor Crotty noted there are a couple of options in moving forward here. One would be if the Council is inclined to grant the request and move forward. Another option if you are not in a position to move forward tonight, would either be approving the plans subject to that condition being worked out that agreement and the fee being worked out, or aside from that, designating one or two council people to be the spokespersons with the library officials so that we can get the parking fee issue further flushed out between the two so that action can be taken on it in an upcoming meeting.

Councilmember Cramer motioned to approve the plan subject to the establishment of a committee headed by Vice President Moore, to work with a committee to come to an agreement on the parking waiver, and also subject to the SALDO waivers; seconded by Councilmember Zavala.

Councilmember Myers motioned to amend the motion to include Mayor Fetick to the Committee; second by councilmember Cramer.

President Mercomes called for the vote on the amended motion.

The amendment to the motion carried unanimously 6-0; President Mercomes abstained.

Councilmember Doerfler noted that at the time of the agreement the fees that existed at that time are different than now and it was for underground parking. He commented that this about coming to an agreement on what is palatable to everyone and realizing that parking for the library is different than parking for business.

PUBLIC COMMENTS

Charla Watson, 523 Magnolia Street, commented that she is hearing about agreements that residents know nothing about. She noted that she thought the Library was going to have parking underneath, but now we hear they are not.

John Thomas, 406 South Broad Street, commented that parking is already in the agreement and the Library could sue you over this.

Brad Peiper, Vice President of the Library Board, commented that he appreciates all the support given by the Borough. He noted that this was all reviewed in 2017 and the tall building overlay in 2020 and it feels like the round rules are changing on us. He noted that they plan to break ground on the library in August which would need to change if items are not approved.

Jeff Yetter, President of the Library Board, noted that we are not asking for one free space. He explained that during the day, people using the library will pay the parking meters. During the day you will find you have very few library people using that parking garage.

Luke Zubrod, 236 South Union Street, urged Council to support the library's request because he believes parking requirements should be rethought to make them more about people than cars.

President Mercomes called for the vote.

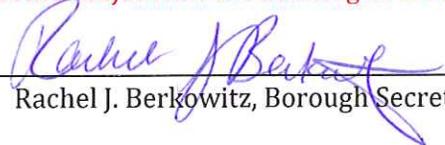
The motion carried 4-2 with Vice President Moore and Councilmember Doerfler voting no. President Mercomes abstained.

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 9:19 p.m.



Rachel J. Berkowitz, Borough Secretary