

## OFFICIAL MINUTES July 6, 2020

The Regular Meeting of July 6, 2020, 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*  
*Borough Manager Joseph C. Scalise*

### ADOPTION of AGENDA

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

*It was moved by Councilmember Myers to amend the agenda by removing Item #8 Black Lives Matter Resolution from the agenda; seconded by Councilmember Cramer.*

Councilmember Myers shared that this is a difficult time for everyone, and she knows that people want to do something, but she believes this resolution is performative and would rather focus on things with more impact in regard to antiracism work. She shared she is not comfortable with the resolution because it has little substance to it, there are no actionable items, it uses jargon from other work and it only serves by making people feel good. Councilmember Myers commented it is important for people to take the time and do their personal inner work, and suggested people do what it says in #5 of this resolution, that when policies fail, start over and seek new and more effective antiracism policies until they work.

Councilmember Waterkotte shared that when he saw this resolution, he thought of it as recognition that the Borough of Kennett Square has always stood by our residents to make it a safe place, open to everyone. He noted the resolution acknowledges this and we know we need to do more, but it is a way of saying we recognize the issues, we stand with one another, and want to do more as we move forward.

President Mercomes commented that she sees this resolution as a preliminary statement and action items can be added later.

Councilmember Zavala noted she believes resolutions like this one to be lip service and passing a resolution like this does not do enough. She challenged Council to add meat to the words we say.

Councilmember Waterkotte commented that this resolution says we acknowledge the systems of oppression and we are in support of change. He noted that whether we pass this or not, we need change and we can build upon this resolution because we recognize the issues. He shared his opinion that anything we can say is important. He noted he is in support of the resolution and is also supportive of Councilmembers Zavala and Myers, and this is just the beginning.

Councilmember Zavala again noted that these resolutions do not do anything. She suggested when we bring these resolutions to Council, they should have actions items attached to them.

President Mercomes advised that we can take this resolution and operationalize it if we work on it.

Councilmember Myers asked why the resolution was brought to Council without any action items. She also pointed out issues with the resolution such as what is the starting point, clarifying the definition of root causes and the general lack of substance. She commented that with no action items, it feels very anti what we are looking for in the Black Lives Matter movement. She stated that nothing in the resolution is uncomfortable and we all need to be uncomfortable right now.

Councilmember Doerfler commented that he is unsure where this resolution came from, but he would rather it be a Kennett Square initiative. He agreed that being uncomfortable is necessary right now and he would rather listen to what is being said and work on a solid plan going forward.

Vice President Moore shared that she pushed to have the resolution on this week's meeting agenda so that it was not forgotten or put aside. She hoped that action items could be attached to it going forward but noted that if Councilmembers feel it is better to start differently, is important and the right thing to do.

President Mercomes asked if there is anyone who would like to work on a task force?

Councilmember Myers shared she is working on a resolution on the root cause of police brutality with actionable items that she plans to bring to Council. She commented she is not willing to commit herself to a resolution that she did not put forth, but noted that if other Councilmembers are, she is willing to review the results and give her honest opinion.

President Mercomes called for the vote remove the resolution from the agenda.

**The motion carried six to one with President Mercomes voting no.**

President Mercomes called for the vote on agenda as amended.

**The motion carried unanimously.**

## **PUBLIC HEARING and ACTION ITEM – LIBRARY CONDITIONAL USE APPLICATION**

A public hearing was held to discuss the proposed Library Conditional Use Application.

**Borough Solicitor Michael G. Crotty opened the public hearing at 7:25 p.m.**

The public hearing was transcribed by Nancy Sciarretta, Court Reporter. A transcript of this public hearing is available through the Chester County Court Reporters Office for a period of seven (7) years.

**It was moved by Councilmember Waterkotte to approve the Library's Conditional Use Application as presented; seconded by Councilmember Doerfler.**

Borough Council's discussion was transcribed by Nancy Sciarretta, Court Reporter. The transcript is available through the Chester County Court Reporters Office for a period of seven (7) years.

**The Motion carried unanimously. President Mercomes recused herself from the vote.**

**Borough Solicitor Crotty closed the public hearing at 8:26 p.m.**

## **CONSENT ITEMS**

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

- Approval of Minutes – June 15, 2020
- Approval of Bills
- Change Order #6 Parking Garage Expansion Project

## **REPORTS**

### **PRESIDENT'S**

President Mercomes did not have a report.

## **FINANCE COMMITTEE**

Councilmember Cramer reported that the Committee met on Monday, July 6<sup>th</sup> at 9:00 a.m. and noted the following items were discussed:

- Review of Bills; ten (10) percent (between eight (8) and ten (10) invoices were pulled for review by the Committee and were moved to the Dropbox for Councilmembers.
- Review of monthly financials.
- Discussed COVID-19 impacts on the budget and predicted a deficit of \$150,000 and noted the amount we will lose from income tax will vary by quarter; there will probably be a request for a budget revision earlier than November; some of the shortfall is due to parking and we will likely need to call on our reserves;
- Kennett Township had personnel changes and the sewer revenue is off schedule; the budget analysis is ongoing.
- At the next meeting, long term water revenues, bond refinancing and a capital improvement plan will be discussed; we will come to Council with recommendations.

Councilmember Waterkotte also reported that Mr. Lyons, President of the Board of Anson B. Nixon Park is looking for support for the Park and the amount of maintenance it requires. Mr. Lyons explained there is building going on surrounding the park and people who are moving in will use the park. He noted the soccer fields are no longer useable and the soccer association will no longer use them because they are sinking, as they were built on the landfill. Councilmember Waterkotte commented that the Finance Committee is in favor of helping them and it will be a topic of discussion on the next Finance Committee meeting agenda.

### **PERSONNEL COMMITTEE**

Councilmember Doerfler reported the Committee finalized the Borough Manager's evaluation form and process and it will be presented to Council at the next meeting.

### **HISTORIC KENNETT SQUARE (HKS)**

Bo Wright, Executive Director of HKS reported that the Small Business Response Funds were disbursed last week; \$182,800 to 41 small businesses in the Borough and Kennett Township. He noted the second round of funding is approximately \$75,00, geared towards minority owned businesses. Mr. Wright commented that HKS has held off on their Third Thursday events because they do not want to promote crowds or crowding behaviors. He also shared that Nate Echeverria, Economic Development Director, will share more about the COVID-19 funding programs available at the next Council meeting.

### **ACTION ITEMS**

#### **ADMINISTRATION**

#### **POSTING COUNCIL MEETING RECORDINGS to the WEBSITE**

Rachel Berkowitz, Borough Secretary advised that since posting meeting recordings to the website is a change from our normal process, which is to retain a recording only until the draft minutes have been approved. Once meeting recordings are posted on the website, the recordings become part of the permanent public record and must be stored and able to be accessed for Open Records Requests. Should we receive an Open Records Request (Right-to-know Request) for a recording, we have to supply the recording on a flash drive to mail out, if the person requesting the recording cannot receive a digital file by email. It also needs to be decided whether to only post meetings conducted via Zoom or in-person meeting as well.

Councilmember Doerfler asked Borough Solicitor Crotty to weigh in the options for posting recordings to the website and consider if we want both the recording and the minutes available to the public at the same time.

Borough Solicitor Crotty commented that you have to consider the cost of storing and maintaining the data, and the effectiveness of it making it public. He noted that once we get beyond Zoom meetings and we have in-person meetings again, recording meetings will have additional costs, including a camera and other equipment. He suggested that posting the meeting recordings while meetings are being held on Zoom makes sense in the effort to involve the community. He recommended having a specific time frame in which recordings will be posted, maintained and removed from the website,

Borough Solicitor Crotty noted that from a legal perspective, anyone can record a meeting under the Sunshine Law and it is important to remember that meeting minutes are not meant to be verbatim.

Councilmember Waterkotte advised the voice recording could be cost effective versus the video recording. He suggested this could be an avenue to get more people involved in the community.

President Mercomes asked if it is possible to provide closed captioning? She suggested looking into that possibility.

Borough Manager Scalise asked if we post recordings, do we have to keep them forever.

Borough Solicitor Crotty explained that Council can remove the recordings from the website in any time frame they choose, such as 30 days.

**Councilmember Cramer motioned to approve posting Zoom Council meetings in video format for three (3) months; seconded by Councilmember Doerfler.**

Borough Manager Scalise asked for clarification if this is just for council meetings.

**Councilmember Myers motioned to amend by having the Zoom video recordings posted to the website retroactively from April 7, 2020 for three (3) months; seconded by Councilmember Cramer.**

Borough Manger Scalise asked if the recordings are still available and Borough Secretary Berkowitz noted she is under the impression recordings are purged in seven (7) days but will find out.

## **PUBLIC COMMENTS**

Andrew Froning, 308 Marshall Street, commented that it is really storage of the video recording and cost that are the issues, but the cost for two (2) meetings per month will be negligible.

**The amendment to the motion carried unanimously.**

President Mercomes called for the vote.

**The motion carried unanimously.**

## **CIVIL SERVICE COMMISSION**

### **CIVIL SERVICE COMMISSION RESOLUTION of RULE CHANGES**

Chief Holdsworth shared that the Civil Service Commission was asked to update the Civil Service Rules and Regulations, as they have not been updated in many years, and to do so prior to the actual testing process. The Chief presented the highlights of the rule changes, one of which streamlined the application process from a two (2) part application into just a one (1) application, updating the examiner list and examination requirements for the positions of coporal, seargent and captain. He noted we also removed some information that was unnecessary in the initial application and changed the wighting of the written and oral examinations to a 50-50 percentage.

It was motioned by Councilmember Cramer to approve the Civil Service Commission Resolution of Rule Changes as presented; seconded by Councilmember Zavala.

### **PUBLIC COMMENTS**

There were no public comments.

President Mercomes called for the vote.

The motion carried unanimously.

### **PERSONNEL COMMITTEE** **COMMUNICATIONS PLAN**

Vice President Moore reported that she and Borough Manager Scalise worked closely on the draft communications plan which has a broad view with many details left loose and unfilled so that it is a flexible plan, not only for crisis communication, but for communication in general going forward. She suggested moving the draft to an existing or ad-hoc committee for completion.

It was motioned by Councilmember Waterkotte to accept the Communication Plan in draft form and send to the Personnel Committee; seconded by Councilmember Doerfler.

Councilmembers Myers and Doerfler both agreed that the plan should be committed to a committee rather than an ad-hoc committee.

Councilmember Zavala asked for the time frame in which the communication plan will be finalized.

Borough Manager Scalise commented that the Personnel Committee would decide the time frame.

Councilmember Doerfler noted that if the Personnel Committee will only meet once a month, it will not work, but he would like to see a final plan go to Council at the August 3, 2020 meeting.

Councilmember Zavala shared her main concern that there is no communication plan in place for COVID 19 in the Borough. She thanked Borough Manager Scalise and Councilmember Moore for their work on the plan, but noted that although it is a pretty document, it needs to be flushed out to make it easy to operationalize to get important information out to the Borough residents.

Councilmember Doerfler commented that this draft is more comprehensive than he expected to receive, and shared that we also need unified, targeted messages and guidelines for COVID 19 to be sent out across all of the Borough platforms quickly,

Councilmember Cramer noted it is great that the Personnel Committee is taking this on but agrees with Councilmember Zavala. He hopes to see a plan at the first meeting in August.

Councilmember Myers shared that the draft plan is a great start. She advised everyone to think through how to get to the core message, one of crisis management during the pandemic, and would like for the plan to have specific, measurable and attainable goals.

### **PUBLIC COMMENTS**

Andrew Froning commented that we need to pick something we can succeed with in the short term. He feels the key to making a communications plan work over time is to have it maintained and refreshed on a regular basis.

President Mercomes called for the vote.

*The motion carried unanimously.*

### **HISTORICAL ARCHITECTURAL REVIEW BOARD (HARB)** **HARB APPLICATION 120 NORTH UNION STREET SIGNAGE**

Andrew Froning, HARB Chairman, 120 North Union Street, the Kennett Heritage Center, which is a place that will hold historical items. The HARB feels the addition of the signage is very acceptable and voted to recommend Council issue the Certificate of Appropriateness (COA).

*Councilmember Doerfler motioned to approve the COA for 120 North Union Street; seconded by Councilmember Cramer.*

Councilmember Doerfler commented that this is clear cut signage and is acceptable.

### **PUBLIC COMMENTS**

There were no public comments

President Mercomes called for the vote.

*The motion carried unanimously.*

### **HARB BUILDING DESIGN APPROVAL - LIBRARY**

Andrew Froning, Chair of the HARB, explained that Library representatives attended the HARB with their presentation. He shared that when he called for a motion to consider issuing the COA, no motion was presented by the members. Mr. Froning noted that HARB has 30 days to make a decision on an application and then it must go before Council for approval or non-approval. Mr. Froning does not feel the Library design meets any of the HARB criteria. He shared that his personal vote would be not to issue a (COA) because the design has no relation in appearance to any structure in the neighborhood or in the Borough, and the mass, scale and height of the building would dominate the surrounding area. Mr. Froning further noted the design is largely a modern structure which would be the first thing visitors see when coming into town and its appearance would be in stark contrast to the typical architecture style of the Borough's Historic District.

Councilmember Doerfler noted that if HARB does not meet within the next 30 days, the COA will be deemed approved, therefore the decision would not play into the next Council meeting.

Borough Solicitor Crotty explained that HARB met on June 16, 2020 and the 30-day window closes 10 days from tonight.

Mr. Froning asked if Council can issue the COA.

Borough Solicitor Crotty advised that it is up to Council's discretion and noted that if the COA is denied, it must be for specific stated reasons. He also advised that Council could consider it at the next Council meeting.

Councilmember Moore asked for a motion to consider the COA tonight or at the next Borough Council meeting in two (2) weeks.

Councilmember Cramer clarified that there is no benefit to waiting for the next Council meeting to take this vote.

**Councilmember Cramer motioned to approve the Library's building design and issue the COA; seconded by Councilmember Waterkotte.**

Councilmember Cramer stated he has great respect for Mr. Froning and his opinions. He commented that the HARB's job is to fit things into the preexisting Historic District. He noted that the Borough is a very eclectic place and he sees two (2) trends, buildings that fit their time frame like, the Race

Street Apartments, and those that do not, like the newest building, the Walker Center. He feels the Library's design plan is appropriate because it references elements of architecture around the Borough.

Mr. Froning shared his disagreement with Councilmember Cramer, noting that the HARB members looked all over the neighborhood, including Willow and State Streets, and took the view that the impact of the new Library design would be jarring, as it would be the first thing you see as you drive down State street from Millers Hill. Mr. Froning suggested that the HARB's job is to look at the Library design in its totality and noted the Library plans do not use Kaolin red brick or a similar size, shape and layout of brick that has been used in town.

Mayor Fetick shared that it took a long time for the HARB to come into fruition and we talked extensively and publicly about the intent of the HARB Ordinance. He noted the HARB's intent is to protect and preserve historic assets to the best of their ability and to have new construction co-exist around it.

Councilmember Waterkotte commented that he believes the plans for the new library are very exciting, and although the building looks different, we need a library that will stand out in our community. He believes it will be a great addition to the Borough and he cannot wait for the Library to open.

## **PUBLIC COMMENTS**

Clara Saxton, 120 West Linden Street and a HARB member, commented that no one could make a motion to approve the design when looking at the Ordinance. She noted that the Race Street Apartments are not in the Historic District. The new Library is the first building in the Historic District. She is also not in agreement with the illuminated letters on the building.

Barbara Cairns, 215 North Garfield Street, shared she has lived in the Borough for 22 years and has been a patron of the Library for 36 years and was a former Library Board President. She is very supportive of the Library professionals that are elevating our vision of the Library. She feels that new architecture can be startling, but she suggested people should dream a little and about the welcoming and beautiful aspects of the building that will endure as the Borough evolves.

Sally Warren, 217 South Broad Street and a HARB member, shared she has studied architecture her and is in agreement with Mr. Froning. In her opinion, the new library design does not have a human scale, which is one of the things that made the Genesis building a success.

Mr. Froning commented that he and the HARB are not opposed to modernization or new structures but would like the design of the library to be more reflective of the Borough.

Ken Edwards, 412 Meredith Street, commented that if it looked more like a building that belongs in the Historic District, he would not be opposed to it, but he believes that Library design does not give the appearance of something that belongs in the Borough, suggesting it looks like it came out of a magazine. He shared his concern that the wall of glass will cause sun glare and the design should be changed.

President Mercomes called for the vote.

**The motion carried unanimously. President Mercomes abstained from the vote.**

## **ZONING & CODE ENFORCEMENT**

### **ADVERTISEMENT to AMEND CHAPTER 23-65 to INCREASE PARKING RELIEF DISTANCE**

Russell Drumheller, Code Enforcement Officer explained that the action tonight is whether authorize the advertisement to amend Chapter 23-65 to increase the public parking distance from 600 feet to 1,500 feet.

**Councilmember Cramer motioned to authorize the advertisement to Amend Chapter 23-65 to Increase Parking Distance; seconded by Councilmember Moore.**

Borough Solicitor Crotty advised President Mercomes that she is able to vote on this action.

## **PUBLIC COMMENTS**

There were no public comments.

President Mercomes called for the vote.

The motion carried unanimously.

## **PUBLIC COMMENTS**

Wayne Warren, 217 South Broad Street, raised the issue of vacant buildings in the Borough and commented about a vacant property at 205 South Union Street that has been sitting vacant and boarded up for at least seven (7) years. He believes vacant, derelict properties will destroy the town, we need to do better, and it is a slap in the face to surrounding property owners. Mr. Warren expresses his frustration that no consideration is given to residents who have pride and financial interests in their properties. He suggested the Borough needs a vacant property registry to address blight.

Sally Warren, 217 South Broad Street, suggested adopting a vacant property registration ordinance that would give owners two (2) years to fix and/or sell their property or they will be fined. She believes it is time for Council to consider protections for property owners.

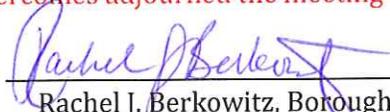
## **COUNCIL, MANAGER and MAYOR COMMENTS and ANNOUNCEMENTS**

Borough Manager Scalise noted that due to staffing issues the office hours have changed to Monday - Thursday 8:30a.m.-12 p.m. He also advised that vacancy ordinances are not legal for the Borough to enact.

Borough Solicitor Crotty explained that the Borough can adopt the property codes, but there is no silver bullet for blighted properties, other than the requirement to maintain the minimum code for property maintenance.

## **ADJOURNMENT**

There being no further business, President Mercomes adjourned the meeting at 10:11p.m.

  
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Rachel J. Berkowitz, Borough Secretary