

OFFICIAL MINUTES September 3, 2019

The Regular Meeting of September 3, 2019, of Council for the Borough of Kennett Square was called to order at 7:00p.m. in the Monroe Nute Room of the Kennett Fire Company No. 1, 301 Dalmatian Street, Kennett Square, Pennsylvania with President J. Douglas Doerfler in the Chair.

ROLL CALL

Present: *President J. Douglas Doerfler*
Vice President Peter L. Waterkotte
Councilmember Ethan L. Cramer
Councilmember Brenda Mercomes
Councilmember Lorenzo C. Merino
Councilmember LaToya M. Myers

Mayor Matthew W. Fetick
Borough Manager Joseph C. Scalise

Absent: *Councilmember James Mallon*

SPECIAL ANNOUNCEMENT

President Doerfler shared that Councilmember Mallon's son who was 27 years old passed away unexpectedly. Please keep the Mallon family in your thoughts and prayers.

ADOPTION of AGENDA

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

Councilmember Cramer moved to amend the agenda, removing the Resolution of Condemnation; seconded by Councilmember Myers.

Councilmember Cramer shared his reasons to consider removing the Resolution from the agenda, one being procedural in that the Resolution is largely symbolic and means little to the Borough. He expressed his opinion that we do not need to speak about the national debate, considering that it has already been settled with 240 members of Congress voting to approve such a resolution. Councilmember Cramer stated that Council's agenda is full of many items that have not been completely followed through with, such as Magnolia Place and a plan to ensure our water system is functional going forward. He feels this means we are not spending time on the issues that need it the most. Secondly, Councilmember Cramer expressed his opinion that discussing this Resolution would be a detriment to the community due to the partisan nature which will divide our

community. He shared that every member of Council has argued for unity and that political party should not matter, noting it is not in our community's best interests to talk this document through.

Vice President Waterkotte agreed with Councilmember Cramer but commented that he struggles with the fact that we live in a town of 6,300 people and feels we need to do something for the 50 percent of our community that is Latino. He feels that no one should be talked to the way the President spoke to the Congresswomen; he was very disturbed by the words that were said.

Councilmember Myers shared that she too struggled with this Resolution but noted this type of symbolic vote does not have the impact she is looking to make on racism in our community. She noted this is a "feel good vote" that does nothing for the people of the Borough.

Councilmember Mercomes commented that Council voted for the Borough be a community where hate has no place and she feels that taking a stand against hate speech is an extension of that. She noted the negative comments we have heard lately are blatant, ugly and hateful and although this Resolution may be symbolic in some ways, it is taking a stand against racism in the Borough.

Councilmember Merino shared that being Latino, he has dealt with racism his whole life, but still felt it difficult to decide on the Resolution. He expressed that in his heart, he condemns hate speech, but asked himself what this Resolution will do for our community going forward. Councilmember Merino shared he likes to tell himself he is not a minority; instead he tells himself who he wants to be in his community.

President Doerfler explained this vote is not on the actual Resolution, but rather considering if it should be removed from the agenda. He shared his belief that when we speak of "condemning" something, it sets a precedent that others could be condemned, which creates divisiveness. He called for a vote on the motion to remove the Resolution from the agenda.

The motion passed by a vote of 4-2 with Councilmembers Waterkotte and Mercomes voting no.

Councilmember Cramer motioned to amend the agenda by moving Items 3, 6 and 7 from Consent Items to Action Items to allow for comments; seconded by Councilmember Waterkotte. The motion carried unanimously.

President Doerfler called for a vote on the motion to adopt the amended Agenda.

The motion carried unanimously.

PUBLIC COMMENTS

Charla Watson, 523 Magnolia Street, commented that Council took the people's voice away by removing the Resolution from the agenda and suggested that Council should listen to what the people say. She noted that Council has referred to only one ethnicity group, yet there are many minority groups in Kennett Square. She also commented that she is hearing white people speak, not the minorities. Ms. Watson suggested that if the U.S. Senate and Congress are not doing anything about an issue, then it is the people's responsibility on the ground to do something, yet here, Council chose not to take any action.

Ken Edwards, 412 Meredith Street, suggested that we are all minorities because we can all trace our heritage back to some other country. He commented that Congress can handle the problems in the White House and shared his belief that the Resolution is not going to do anything but divide the town.

John Thomas, 406 South Broad Street, shared his opinion that it is ridiculous that someone wanted to bring this Resolution forward. He noted there are very few minorities in the audience tonight and Council does not speak for the Hispanic community. He believes we have a very divided country and the Resolution is not helpful to our town.

Luis Tovar, Chair of ACOLA, commented that he supports condemnation when it is the right thing to do. He suggested that instead of events like Mushroom Festival, the Borough should have more educational events like the Juneteenth Celebration, which sadly, was not well attended. Mr. Tovar feels that more conversation and communication is what is needed in this community. He noted that this used to be a community of migrant workers, but the mushroom industry created year-round work, so people that used to be called migrants are creating roots in the community, buying homes and raising families. He suggested that we need to continue to give people an opportunity to succeed.

Wayne Braffman, 472 East South Street, shared his disappointment with the decision made by Council and hopes that the Resolution will be considered at a future meeting. He explained that he and Jessie Cocks presented the Resolution to Council at the request of Anton Andrew, who is a township resident and a black man from an immigrant family. Mr. Braffman believes that condemnation of hate speech is a local issue, and the Resolution comes from people living in the community who are terrified by what we see and hear. He would like people to know that hate speech has no place in Kennett Square, and it is unacceptable, no matter who it comes from.

Jessie Cocks, 807 South Walnut Street, agreed with Mr. Braffman and shared she is shocked and disappointed by the long process to remove the Resolution from the agenda. She also agreed that it may be a symbolic action but feels it is important. She noted this Resolution is about condemning hate speech which is not a Republican or Democrat issue.

CONSENT ITEMS

President Doerfler announced that the following Consent Items (#1, 2, 4 5) are deemed accepted with the approval of the agenda:

- Minutes of August 5, 2019.
- Bills that were paid since the last Council meeting.
- Approve 2019 MMO –Non-Uniform Employees
- Approve 2019 MMO – Uniform Employees

REPORTS

PRESIDENT'S REPORT

President Doerfler reported that the Borough of Kennett Square has been awarded the SolSmart Bronze Star. He explained that SolSmart is a national designation program recognizing communities that have taken the action to reduce the soft costs and encourage solar installations in the community.

President Doerfler also provided an update on the last Joint Economic Development Committee meeting between the Borough and the Township. He shared that the work done by the initial VPP Task Force is complete and on August 20th, Borough members on the Task Force met to address the Borough-specific items. The draft VPP report will be made available to the public in the Fall with numerous occasions for public input.

MANAGER'S REPORT

Borough Manager Scalise submitted a written report that was included in the Council packet. In addition, he commented that the EV charger has been installed in the parking garage and is being used. He found an additional \$500 PECO grant to help with the cost of installation. Manager Scalise received the draft report of the DVRPC's Regional Truck Freight Study but has not had a chance to review it yet. Once it has been reviewed, he will send it on to Council and make it available to the public.

FINANCE COMMITTEE

Councilmember Merino, Chair of the Finance Committee, reported the following activity from their meeting on September 3, 2019:

- The Committee reviewed the bills and monthly financials;
- Continued discussion on the Library funding proposal;
- Agreed to extend the A.J. Blosenski contract for trash and recycling;
- Discussed the headsets for translation services, noting that we are looking for volunteers to translate to Spanish during Council meetings; and
- Agreed to suggest the refinance of an existing debt which will save the Borough approximately \$200,000.

Councilmember Waterkotte explained they have not been able to find volunteers who are skilled enough to translate what is being said at Council meetings into Spanish. He noted we will advertise for volunteer translators on the Borough's website and Facebook and commented that if we cannot find volunteers, the Borough may have to accrue a monthly bill for translation services. He asked that if you are interested, to contact the Borough office.

MUNICIPAL RELATIONS COMMITTEE (MRC)

President Doerfler reported that Wednesday, October 2, 6 p.m. - 8 p.m. is the Public Forum for which details are being finalized. There will be tables around the room with information on topics including infrastructure, public safety, developmental concerns, the NVF property, etc. President Doerfler shared that Mary Francis McGarity from the Chester County Economic

Development Council gave a presentation to the MRC regarding how they could help the Borough with the conveyance of Borough-owned properties.

PERSONNEL COMMITTEE

Councilmember Mercomes reported that the Committee did not have a formal meeting in August. She advised they will meet with the KSPA on September 11th for continued contract negotiations.

ECONOMIC DEVELOPMENT DIRECTOR

Nate Echeverria, Economic Development Director, was unable to make the meeting and submitted a written report that was included in the Council packet.

ACTION ITEMS

Councilmember Cramer motioned to 1) Approve the Request from the Domestic Violence Center of Chester County; 2) Accept the Resignation of Caroline Roosevelt, Board Member, Kennett Area Parks Authority (KAPA); and 3) Accept the Resignation of Liam Warren, Borough Representative – Southeastern Chester County Refuse Authority (SECCRA); seconded by Councilmember Myers.

Councilmember Cramer commented that Caroline Roosevelt and Liam Warren are two (2) of many people who serve the Borough in various ways and on behalf of Council, he thanked them for their service. Councilmember Cramer also noted that each October the Domestic Violence Center of Chester County (DVCCC) hangs purple ribbons around the Borough to raise awareness about domestic violence and the services available through the DVCCC. He shared his belief that local government should make sure that people are not alone with things they cannot handle.

The motion carried unanimously.

CONSIDER APPROVAL of NEW SPECIAL EVENT: BRANDYWINE PLEIN AIR NOCTURN EVENT, OCTOBER 17th, 2019

Borough Manager Scalise explained that the event will run from 6 p.m. – 10 p.m. on Thursday, October 17th on the 100 block of State Street, the only street to be closed for the event. He shared the summary provided by Claire Murray, Main Street Manager, describing the event as an opportunity for “40 Plein Air Brandywine Valley Artists to take to the streets to paint Historic Kennett Square. Artists will paint along the street and visitors can stroll along W. State Street, interact with the artists, see their vision and watch them create wonderful works of art. The Plein Air ‘Fall Stroll’ during Nocturne Kennett Square is a partnership with Historic Kennett Square, restaurants and businesses in the area with plans to draw people into the live art blocks on and around State Street. All artwork is entered into a competition, judged and presented for view and sale on W. State Street. All proceeds from the sales of art benefit Youth Development Programs at Children’s Beach House. Nocturne Kennett Square and the Fall Stroll is an event presented during Plein Air Brandywine Valley week”.

Borough Manager Scalise noted that the event application has been approved by the Department of Public Works, the Police and Fire Departments.

Councilmember Cramer asked why the event was not put on Broad Street instead of State Street.

Borough Manager Scalise explained that the artists will paint what they see on State Street, which is a more interesting view than on Broad or another side street.

It was moved by Councilmember Waterkotte to approve the Brandywine Plein Air Nocturn Event as presented; seconded by Councilmember Mercomes.

Councilmember Cramer commented he is concerned that we close State Street often for events and shared that his litmus test for an event is whether it benefits all members of the community and if it is free and open to the whole community. He noted that closing the street for a small event like this may not be the best thing to do.

President Doerfler expressed his opinion that it sounds like a great event and suggested asking the artists if there is another area of town they could paint for future events.

PUBLIC COMMENTS

Charla Watson noted that we close the street too often and it is an inconvenience to citizens. She feels the event could happen on a smaller scale, such as in a parking lot off of State Street.

Councilmember Cramer motioned to refer the event back to the applicant to consider Broad Street as an alternative event location; seconded by Councilmember Myers.

Councilmember Waterkotte shared his opinion that it is a short evening event where artists can paint our town and share its beauty.

Councilmember Myers explained that her decision is not a 'no' on the event, but an acknowledgement that Third Thursdays have been extended and she suggested that if the event could be moved to a different location, it would be a nice compromise.

President Doerfler suggested the artists be asked to consider another area of town to paint. He noted this vote is not a yes or no on the event itself, it is to vote of yes or no to refer it back to the applicant for further consideration.

The motion carried 4-2 with Councilmembers Waterkotte and Mercomes voting no.

**CONSIDER for APPROVAL:
PENNDOT MAINTENANCE AGREEMENT and RESOLUTION**

Borough Manager Scalise explained that we finally received a resolution to the permit application for traffic calming on North Union Street. He advised that the maintenance agreement states that the Borough will maintain the island, since we are installing the island. Borough Solicitor Crotty has reviewed and approved the agreement. Borough Manager Scalise further explained that the Resolution designates the signer of the agreement, which is a PennDOT requirement.

It was moved by Councilmember Cramer to approve the terms of the Maintenance Agreement and Authorize the Signer as presented; seconded by Councilmember Waterkotte.

PUBLIC COMMENTS

Charla Watson questioned where the island is to be located and it was confirmed it would be located just south of Fairthorne Street. She shared her concern that it is a dangerous place for a traffic island and asked who will be liable for accidents at the location, PennDOT or the Borough. She believes trucks will not easily be able to take that curve.

Mayor Fetick explained that the point of the island is to slow traffic and it is an approved PennDOT traffic calming measure.

The motion carried unanimously. The Resolution was assigned No. 2019-20

**CONSIDER for APPROVAL:
TEMPORARY USE ZONING PERMIT for T-MOBILE CELL TOWER on WHEELS**

Borough Manager Joe Scalise explained that T-Mobile currently has a site for their antenna at 400 West Mulberry Street on the water tank, but they are not working. T-Mobile has asked to place a temporary cell tower on wheels in the same location, which requires a zoning permit. Borough Solicitor Crotty has reviewed the information and suggested issuing a temporary permit for up to six (6) months. Borough Manager Scalise advised we are working with T-Mobile to find a permanent tower location.

Councilmember Waterkotte motioned to approve the temporary use zoning permit for T-Mobile's Cell on Wheels; seconded by Councilmember Merino.

Councilmember Waterkotte noted his main concern in regard this issue is safety, as T-Mobile users should be able to use their cell phones throughout the Borough.

PUBLIC COMMENTS

John Thomas asked if we can negotiate lower rates for employee/police cell phones during negotiations regarding the installation of a cell tower.

The motion carried unanimously.

CONSIDER HARB APPLICATION - 115 MARSHALL STREET

Clara Saxton, 120 W. Linden Street, a member of HARB, explained that Mr. Braffman applied to erect a temporary sign made of flexible plastic. The HARB recommended that Council should not issue a Certificate of Appropriateness (COA), but to recommend he alter the application to a different material for future consideration. Ms. Saxton noted the applicant did not attend the HARB meeting.

President Doerfler asked if it is the same banner/sign used a few years ago on Broad Street. Ms. Saxton explained she is unsure, but that we did not have the same sign ordinance at that time.

Councilmember Waterkotte motioned to uphold the HARB's recommendation to not issue a COA, but recommend they alter the application to a different material for future consideration; seconded by Councilmember Merino.

Councilmember Cramer shared his concern that our sign ordinance is inconsistent with a 2015 Supreme Court ruling regarding free speech and he would refer it to the Borough Solicitor.

Borough Manager Scalise commented that we have 30 days from the date of the HARB meeting before the application is considered approved and the issue here is that the sign materials are not consistent with the sign ordinance.

Ms. Saxton suggested talking to Mr. Braffman before involving the attorney.

Councilmember Waterkotte suggested that since we are only addressing the issue of the sign materials, we should not be concerned about what the sign says.

Councilmember Cramer motioned to amend and refer the application to the Borough Solicitor, seconded by Councilmember Myers. The motion failed unanimously.

Councilmember Cramer motioned to postpone the decision indefinitely; seconded by Councilmember Myers. The motion did not carry by a vote of 3-4 with Councilmembers Merino, Doerfler, Waterkotte and Mayor Fetick voting no.

President Doerfler called for a vote on the original HARB application motion to uphold the HARB's recommendation that we do not issue a COA, but recommend the applicant alter the application to a different material for future consideration.

PUBLIC COMMENTS

John Thomas commented that if our sign ordinance is unconstitutional, Council needs to change the ordinance.

Borough Manager Scalise explained that we do have a sign ordinance and there may be a section that if someone were to challenge it in court, it may be considered unconstitutional, but the rest of the ordinance would remain an enforceable legal document.

Charla Watson commented that it is a banner and she does not understand why this is such a big deal. She suggested talking to Mr. Braffman before bringing in the lawyers.

Jessie Cocks, 807 South Walnut Street, noted that Council could decide not to take the HARB's recommendation and allow the sign to be put up, knowing that they need to get the sign ordinance situation settled.

The motion carried 4-3 with Councilmembers Myers, Cramer and Mercomes voting no.

President Doerfler asked Council if there were any objections to taking the next two (2) HARB applications as a slate. There were no objections.

CONSIDER HARB APPLICATIONS: 106 LINCOLN STREET & 410 S. UNION STREET

Clara Saxton shared that the 106 Lincoln Street application is for the installation of a picket fence and arbor with a gate. She noted the HARB recommends issuing a COA. Ms. Saxton explained that the 410 South Union Street application is to demolish an unsafe garage and replace the structure. She shared that HARB recommends issuing a COA.

Councilmember Cramer motioned to approve the HARB's recommendations to issue a COAs to 106 Lincoln Street and 410 South Union Street; seconded by Councilmember Waterkotte.

PUBLIC COMMENTS

Ms. Watson commented that the garages at the backs of properties have been rebuilt bigger than they should be and asked Council to make sure we are following the ordinance.

John Thomas suggested the HARB recommendation should say that the new structure cannot be bigger than the original.

The motion carried unanimously.

CONSIDER APPOINTMENTS to AD HOC HUMAN RELATIONS COMMITTEE

President Doerfler explained we passed the resolution last month establishing the Ad Hoc Human Relations Committee which is charged with getting the Human Relation Commissions up and running. He noted we received six (6) applicants, and we will consider Ann Parry, Franco DiCarlo, Marisol Tackett, Mayra Zavala and Stephanie Oyler for appointment to the Committee.

Councilmember Cramer motioned to accept all six applicants and appoint them to the Ad Hoc Human Relations Committee; seconded by Councilmember Myers.

Councilmember Cramer explained that this was put into place by the Anti-discrimination Ordinance. This Committee will help lay the groundwork to set up a place in town where people can come together to confront issues with meaningful results.

Councilmember Mercomes commented it is very important to have this locally and it does not preclude us from looking at what is happening nationally.

Councilmember Waterkotte expressed that these volunteers will do great work and we are thankful for their willingness to serve.

Borough Manager Scalise shared that we received one (1) application after the deadline, just in case the Committee is interested in additional members.

President Doerfler thanked the volunteers for their service.

PUBLIC COMMENTS

John Thomas shared his opinion that we need to focus on what is happening here in the Borough, rather than nationally.

President Doerfler offered the applicants an opportunity to speak.

Franco DiCarlo shared that he moved back to the Borough for his retirement and is excited to contribute to the community in this way.

Ann Parry commented that she is a teacher in Delaware and is looking forward to serving in the community and collaborating with local like-minded people to create a safe space in the Borough.

President Doerfler called for a vote to appoint all six applicants to the Ad-Hoc Human Relations Committee.

The motion carried unanimously.

Councilmember Cramer motioned to authorize Stephanie Oyler to convene the Committee meetings; seconded by Councilmember Mercomes. The motion carried unanimously.

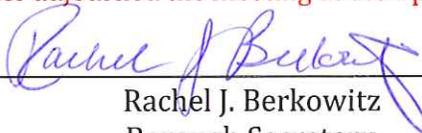
COUNCIL, MANAGER and MAYOR COMMENTS and ANNOUNCEMENTS

Mayor Fetick advised that on Saturday, September 28th the Police Department is running a gun buy-back program from 10 a.m.-2 p.m. and Borough residents will receive \$50 per gun. He explained this is an effort to get unwanted guns in our community out of homes and off the streets. He commented that more information on the event is coming and the details will be on the website and flyers will be posted. He also noted that everyone is excited for the Mushroom Festival this weekend and there are new security initiatives, including bag checks at every entry point.

Borough Manager Scalise shared that the Revolving Loan Fund loan for 120 East State Street closed on August 29th. He noted that the Finance Director met with one of the local banks we use and when she was asked what the bank could do for us, she said to raise our interest rate, which the bank did; when annualized, it is an additional \$70,000 per year.

ADJOURNMENT

There being no further business, President Doerfler adjourned the meeting at 9:04 p.m.



Rachel J. Berkowitz
Borough Secretary