

## OFFICIAL MINUTES September 8, 2020

The Regular Meeting of September 8, 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 Waterkotte to approve the agenda as presented; seconded by Councilmember Moore.*

*The motion carried unanimously.*

### CONSENT ITEMS

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

- Approval of Bills
- Approve 2021 MMO – Non-uniform Employees
- Approve 2021 MMO – Uniform Employees
- Change Order #7 Parking Garage Expansion Project
- Resolution Move Forward to Refinance Debt

### PUBLIC COMMENTS

John Thomas, 406 South Broad Street, shared his belief that too much money is being spent on economic development benefitting Kennett Township and he does not agree with spending \$50,000-\$60,000 on the position. He also shared his concern over the proposed tunnel that Kennett Township wants to put in near Magnolia place. He shared that he was born and raised in the Borough and between NVF and the town dump sites near where the tunnel is proposed, the ground is very dirty. He is concerned for people's health and for the Borough's liability.

## REPORTS

### PRESIDENT'S

President Mercomes reported on two (2) events coming up this week, the first in on Thursday, September 10 when the Borough will welcome the five (5) women of "We Walk With Harriet" who were inspired to walk the entire Harriet Tubman Underground Railroad Byway, a total of 116 miles. She noted the women started their walk in Cambridge, Maryland on September 5, 2020 and will be welcomed and greeted by Borough representatives, the Heritage Center and the Library at the new library site and the current site that honors Harriet Tubman. A tent will be set up for the walkers, we will social distance and all must wear masks. More information and updates can be found on their Facebook Page, We Walk for Harriet.

President Mercomes also reported the Kennett Heritage Center will host Kennett Occupation Day on Thursday, September 10<sup>th</sup> in downtown Kennett Square. She explained that on that day in 1777, the British and Hessian armies began their walk to the Battle of the Brandywine and 18,000 soldiers occupied the Borough, encamped near the current high school and they occupied the homes and taverns for quite some time to plan their attack. There will be British Revolutionary War reenactors and Kennett citizen reenactors in the middle of town from 4pm-6pm. President Mercomes encouraged people to attend these activities, as they will both be very interesting.

### FINANCE COMMITTEE

Councilmember Waterkotte reported that the Committee met on Tuesday, September 8, 2020 at 9:00 a.m. and noted the following items were discussed:

- Review of Bills.
- Review of monthly financials.
- Broke into executive session over solid waste, and an additional meeting was scheduled for the 21<sup>st</sup> to continue the review.
- Discussed COVID-19 impacts on the budget.
- EIT projections - Councilmember Cramer shared that year-to-date, EIT last year was about \$525,000 and this year is at about \$500,000. He explained that EIT is something we should all be worried about because it is revenue; it pays for the Police Department, Fire and EMS and it depends upon people paying their taxes. He further noted that EIT is directly related to how much money people are making in their jobs and suggested that the resilience of the Borough residents is great, because we have not lost much ground. Councilmember Cramer shared there is a lot going right in the Borough, that people are able to work and continue their ability to withstand these hard conditions is hopeful and because our community is diversified financially, and we are stronger for it.

Borough Manager Scalise commented that the additional special Finance Committee meeting is on September 21<sup>st</sup> and is about capital improvement projects.

Councilmember Myers suggested that although \$25,000 is not a lot of money, it is only 5% of the total EIT. But as we move forward, if we begin to move towards the 10% mark, it will be more significant and we will need to be cautious.

Councilmember Cramer commented that we thought we would see a problem in August if there was going to be a significant problem. But he feels like we reached a milestone in August and we hope for the best in the future.

Borough Manager Scalise explained the fact that we did not get anywhere near the 15% decrease that was predicted is good, but there are too many variables to predict forward and we are proceeding cautiously with expenses.

### **PERSONNEL COMMITTEE**

Councilmember Doerfler reported the Committee did not meet last week, but there have been five (5) weeks of the weekly COVID updates on social media and are working to expand the broader communication plan for the future.

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

Bo Wright, Executive Director of HKS, reported that businesses in the Borough are staying afloat and HKS is doing their best to support them. He noted they built the Parklet to provide for more outdoor dining space on State Street and they are using some funds from the AARP grant to create additional outdoor seating for LatinX businesses. He noted that HKS has distributed two (2) rounds of financial assistance and is preparing for a smaller third round distribution of assistance as well. Mr. Wright shared that businesses, especially the restaurants, are concerned about the colder weather coming and HKS is working on holiday plans with safety and social distance in mind to support our small businesses.

### **PUBLIC MEETING and ACTION ITEM: AMEND MS4 STORMWATER PERMIT**

Borough Solicitor Mike Crotty explained that the Borough has a TMDL update to submit to DEP and it has been advertised since August 6, 2020. He noted the purpose of this portion of the meeting tonight is to accept any additional public comment on the plan. We have Lindsay Frasier from Pennoni here with is in the meeting tonight because she was instrumental in putting the plan together.

Borough Manager Scalise explained that about a year or so ago, the Borough partnered with the Kennett Area Park Authority (KAPA) and the Brandywine Red Clay Alliance to do stream/storm bank improvements at Nixon Park with the intention to claim those stormwater credits. He stated we are applying to DEP to amend our MS4 Permit to take credit for the stream bank restoration project at Anson Nixon Park. The NPDES Permit is for five (5) years and includes a TMDL plan describing the measures taken to achieve reduced levels of certain contaminants in the stream. If DEP accepts the amendment as described, it will save the Borough a significant amount of money in meeting our TMDL reductions.

### **PUBLIC COMMENTS**

John Thomas, 406 South Broad Street, shared his concern that when building, we leave enough space for stormwater runoff. He suggested we think about drainable sidewalks and more open space for ground grass for stormwater runoff instead of helping outside the Borough.

Borough Manager Scalise explained we are only taking credit for storm stream bank improvements within the Borough only, addressing existing issues. He further noted that any new projects and new construction would have their own stormwater requirements and criteria to meet.

Lindsay Frasier, from Pennoni, noted that Borough Manager Scalise is completely right. She explained that this plan is addressing existing load issues, specifically total dissolved solids, nitrogen and phosphorus loads in the East and West branches of the Red Clay Creek, based off of 2012 values. She stated that anything in the future would have to adhere to the Borough's existing stormwater requirements.

Mr. Thomas commented that he does not think our stormwater management is strong enough and we need to require that the builders and developers do exactly what they are required to do to build on a property in order to take care of future stormwater issues.

Borough Solicitor Crotty, hearing no other public comment, closed the official public comment period and noted the motion would be to authorize the submission of the amended NDPS TMDL plan to the Department of Environmental Protection.

**Councilmember Cramer motioned to authorize the submission of the amended NPDES TMDL Plan to the Pennsylvania Department of Environmental Protection; seconded by Councilmember Myers.**

Councilmember Cramer commented that we are making sure there is leeway for our stormwater system and the goal is to comply with DEP so we are not fined. He hopes that people will take it as part of the culture that we take care about this issue. He also shared his belief that we should consider additional stormwater projects, to be good stewards and help to clean up the water and environment.

President Mercomes called for the vote.

**The motion carried unanimously.**

## **ACTION ITEMS**

### **ADMINISTRATION**

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

Borough Manager Scalise shared that HKS has presented a revised MOU with regard to the Economic Development Director position. He explained that the prior MOU was for three (3) years expiring in late 2020 and the current draft is for an additional two (2) years effective January 1, 2021. Borough Manger Scalise noted we all wanted more metrics to be able to measure the success of the position if we are going to move forward with it. This current draft is presented with changes and contains exhibits from both Eden Ratliff, Manager, Kennett Township, and the Borough with defined goals for each municipality.

Bob Norris, Economic Development Committee, shared that this is an extension of the MOU but much different because we are looking at very distinct objectives and goals that the Borough and Township are looking to achieve over the next wo (2) years, and it will engage the entire Office of Economic Development, with Director Nate Echeverria. He noted we want to make sure that both the Borough and the Township are getting what they are paying for, and hopefully more from HKS. The MOU is to pursue the objectives that you as the Borough set and the entire agreement is contingent on both municipalities agreeing to the terms and sharing the cost. The accountability and measurements are very important going forward. Mr. Norris shared that economic development, as it pertains to the Borough, does not have to mean building more or bigger, it can be about outreach to our businesses, the Latinx community, affordable housing, and supporting and treating all of businesses fairly.

Bo Wright, Executive Director of HKS advised that the MOU states the terms between the three (3) partners and the addendums provide the goals and objectives developed by Mr. Scalise for the Borough and Eden Ratliff for the Township. He noted the goals and objectives provide greater accountability and include business retention and identification of new businesses to move into the Borough; provide recommendations to existing zoning and determining what changes need to be made; provide development analysis, financial impact analysis on proposed new development at the request of Council or the Planning Commission; create a stronger relationships with Borough staff and Council; determine Borough Council's economic development priorities; work with the Chester County Economic Development Council to create a plan for Borough-owned underutilized parcels; provide direct support to small businesses through relocation and education, and whatever else is needed; and secure and manage grants for the Borough. Mr. Wright and HKS consider their work to be achieving the objectives of this Council and will go in the direction they see fit.

Councilmember Myers noted that affordable housing is a term she no longer uses, instead she prefers to say "housing at every price point" and asked for their strategy on that and on black-owned businesses.

Mr. Wright commented that he prefers "housing at every price point" as well – we kicked off a housing task force including President Mercomes, Mr. Scalise, Mr. Drumheller and that group will continue. although during COVID, it has fallen by the wayside, but it is a priority as we move forward. Specific to black owned businesses, Mr. Wright commented that in the past HKS was developed to invigorate State Street, and now we have moved into supporting and engaging the entire Borough. He shared that many of the grants recently awarded went to minority-owned businesses. He also noted that we have more work to do addressing those issues and serving the entire community.

Councilmember Myers shared she believes acknowledging this blind spot is a good first step. She asked if in the strategic plan if there is a way to make this position sustainable, or in two (2) years will you come back to Council with a request for an increase and wanting the Borough to own this piece, because it seems like it is broken out like a program budget. She asked if there are other ways to sustain the position.

Mr. Wright explained that traditionally the main street work has been supported almost entirely by special events and the economic development work has been supported entirely by municipal sponsors. He advised that we are working to change that ideal and are asking and receiving more support from local businesses and individuals, which is a top priority. Mr. Wright advised that it makes sense to have support from municipalities, but we also have the priority of becoming self-sustaining.

Mr. Norris noted that historically HKS focused on the State Street, but for many of us, our eyes have been opened to what this community actually is all about. He shared that when you look at housing at all price points, as a community we do not even have a good idea of our housing status inventory. He also shared that minority businesses have not been considered in the past, but we have been reaching out to them now, are working on these issues and we need to know better what our residents want.

Councilmember Zavala commented that historically Kennett Square has focused on the main drivers, our State Street businesses, but she shared that the tourism money that is captured in the businesses on State Street does not stay in the Borough. She believes we need to do better supporting the businesses where that money could go.

Mr. Wright shared that HKS is making every effort to change that, but it is definitely a slow process. He stated that HKS wants to become an organization that serves the entire Borough and we will continue making those efforts.

Councilmember Cramer noted the question for us is to consider committing the MOU to a Committee. The two (2) active committees are our Personnel and Finance committees. He believes that HKS is a prime asset in our community. But, he explained that what we are talking about moving forward with is a different thing and shared that during the previous two and a half years and there was a lot of confusion over Mr. Echeverria's position and the relationships involved. There was a lot of tension and division in terms of how the position was set up and we did not move forward in the way we had hoped. He shared he has no concerns taking on this position and the MOU with the direction that has been articulated, knowing that the previous model did not serve us well and goals were not met. Councilmember Cramer advised we are starting on a new version of this and thanked Mr. Norris and Mr. Wright for being here to talk further.

Mr. Wright commented that those are things we want to work on, getting into the right alignment relationships and working to achieve the objectives. He noted that this MOU is not built around an economic development study, it is built around the objectives of Council and being accountable for those objectives. He advised the MOU is not specific to Mr. Echeverria, although we are pleased with him and think he is a first class intellect, is very professional and we think he has done a great job, particularly in the last six (6) months of COVID.

**Councilmember Myers motioned to send the draft MOU with HKS to the Finance Committee for review and consideration; seconded by Councilmember Waterkotte.**

Councilmember Myers shared that she really likes what she heard tonight and hopes it comes to fruition, as these are things she has been talking about for four (4) years. She believes we need to preserve housing at every price point that we have because we know we have limited space and it is expensive to build. Councilmember Myers noted that she committed this to the Finance Committee because she wants us to think about this in terms of the donations and support we give to nonprofits and not do it as a silo.

Councilmembers Cramer and Doerfler commented they both looking forward to continued conversation regarding the MOU.

## **PUBLIC COMMENTS**

John Thomas commented he thinks it is a waste of money and does not like the economic development position. He shared his concern that all we talk about are black and brown people and asked why we do not talk about poor white people and seniors. He suggested we look to the Township to build affordable housing. He reminded everyone that this is about what the residents in the Borough want, noting that most seniors and low-income people cannot shop in town. He believes we need a variety for every economic range of family to shop and/or eat out. He does not believe we should look to create more housing because the Borough does not have enough ground to build housing.

Andrew Froning, 308 Marshall Street, commented that he met with Mr. Wright and Mr. Echeverria to explain the HARB and the goals. He suggested that in the discussion regarding the MOU, that Council add members of the Planning Commission, HARB and other subcommittees

because we are often involved in the work on the day to day as well and could be useful to hear that side of the conversation.

President Mercomes called for the vote.

**The motion carried unanimously.**

### **FINANCE COMMITTEE**

#### **PARK and RECREATION FEE-IN-LIEU-OF**

Borough Manger Scalise shared that Richard Lyons, Chair of the Kennett Area Park Authority (KAPA) attended the Finance Committee meeting in July to ask about the Park and Rec fee-in-lieu-of and whether some of the funds could be allocated to help KAPA run Anson B. Nixon Park. He noted that the Finance Committee was in support of that, as long as it is within the Ordinance we have adopted.

Councilmember Waterkotte shared that the Finance Committee agreed that we are able to allocate some of those funds to help the park.

Borough Manager Scalise explained there are currently only a few hundred dollars in the fund, and you asked to have the discussion with Council for consideration.

Councilmember Cramer asked if there is at least \$250 in the fund, and Mr. Scalise confirmed yes.

**It was motioned by Councilmember Cramer to disburse \$200.00 to KAPA; seconded by Councilmember Doerfler.**

Councilmember Cramer noted these funds should be dedicated to this in the future as an appropriate use of this money. There is always more investment and although \$200 will not make that much of a difference, this is now on the record for our support of KAPA.

Councilmember Waterkotte commented that the park is being used more than ever now during COVID and \$200 is money that can take care of smaller issues and every dollar we can help the park with will be put to great use.

Councilmember Myers asked if the intention is that when more funds become available, we take another vote on allocating the money? She noted there may be other entities that are doing something that is also aligned with the Ordinance, and for future reference, is this ongoing to one entity or as funds become available we can make decisions on how to disperse them.

Borough Manager Scalise suggested that it would be allocated through the budget and that this was a special ask, because in effect, we are amending the budget. He noted that we never updated the Ordinance for maintenance and what is an eligible use so that we do not run afoul of our own Ordinance.

Councilmember Cramer noted that improvements would fall into the Ordinance, as well as to either buy park land or make investments and the Ordinance has not been amended to allow for operations. He feels requests will need to come for a vote through the budget or a special request. He stated the intent is to make it likely that Council consider the park and set the precedent that the first thought for the money would be the park.

**PUBLIC COMMENTS**

John Thomas shared he is not in support of this allocation and shared his complaint regarding the water tower that is now on KAPA property and they receive the money on the lease from the wireless companies. He noted the Borough tends to the needs of the water tower, like when it needs to be painted, so we already donate and help the park, yet we receive no credit.

Councilmember Myers thanked Borough Manager Scalise for putting this in the budget process and noted that we really need to take all things into account and look at all the parts when considering contributions to various nonprofit entities.

President Mercomes called for the vote.

*The motion carried unanimously.*

**HISTORICAL ARCHITECTURE REVIEW BOARD (HARB)****HARB APPLICATION – 130 South Union Street – Signage****HARB APPLICATION - 315 North Union Street – House and Barn Renovation**

Andrew Froning, HARB Chair, noted we have two (2) applications, one for a sign at 130 South Union Street for which we have no concerns. The second is the 315 North Union Street and most of the work they would like to do is not visible from the right of way. The HARB recommends issuing the COA's to both applicants.

*It was motioned by Councilmember Doerfler to approve the COA's for 130 South Union Street and 315 North Union Street; seconded by Councilmember Waterkotte.*

**PUBLIC COMMENTS**

There were no public comments.

President Mercomes called for the vote.

*The motion carried unanimously.*

**BOARDS AND COMMISSIONS****RESIGNATION FROM HUMAN RELATIONS COMMISSION – FRANCO DICARLO**

Borough Manager Scalise shared that on August 18, 2020, Franco DiCarlo advised the Chair of the Human Relations Commission, Stephanie Oyler, that he was resigning from the Commission and we are asking Council to officially accept the resignation.

*Councilmember Cramer motioned to accept the resignation of Franco DiCarlo from the Human Relations Commission; seconded by Councilmember Zavala.*

Councilmember Cramer commented that we appreciate his service and for his continuing commitment to the Borough of Kennett Square. He also asked the Borough Secretary to check in with the other Boards and Commissions to make sure we have their current members.

Councilmember Myers noted that Mr. DiCarlo was the first Commission member to attend trainings and get the Commission moving forward. She thanked Mr. DiCarlo and shared the Commission really appreciated his time.

### **PUBLIC COMMENTS**

There were no public comments.

President Mercomes called for the vote.

**The motion carried unanimously.**

### **RECOMMENDATION of APPOINTMENT to the KAPA BOARD – NANCY AYLLON-RAMIREZ**

**Councilmember Waterkotte motioned to appoint Nancy Allyon-Ramirez to the KAPA Board for a five-year term ending January 2025; seconded by Councilmember Moore.**

### **PUBLIC COMMENTS**

There were no public comments.

President Mercomes called for the vote.

**The motion carried unanimously.**

### **MANAGER/PUBLIC WORKS**

#### **RESOLUTION/PROJECT for CFA MTF GRANT (BIRCH STREET STREETScape and STORM WATER)**

Borough Manager Scalise explained in July he gave his presentation regarding Birch Street and the joint grant application with Kennett Township for the Magnolia underpass around the Pennock Park property. He explained that the vote tonight is a resolution to apply for the grant. He advised that the Birch Street project include streetscapes, traffic calming, roadway and stormwater improvements, among other things. He commented the idea is to take the current money allocated to the Borough from our CRP grant with the county, which is \$500,000, as well as the \$200,000 we had budgeted to solely do stormwater improvements on Birch Street, and use all of that \$700,000 as a match to do not only the stormwater improvements, but all the other items listed all in one project. He explained that applying for this grant and partnering with Kennett Township will save us money in the long run and will also get the project completed quickly. He noted the grant will not be awarded until the Spring. Borough Manager Scalise also commented that we are aware of the contamination in the area of Pennock Park and area properties and shared that the Borough was looking to build a bus depot with the school district on Pennock Park, about

15 years ago before they outsourced busing. During that time, we looked extensively at Pennock Park, and he has had those discussions with all of the parties involved in this project so they are well aware of the potential challenges.

**Councilmember Cramer motioned to approve the resolution authorizing the filing of an application to the multimodal transportation fund program as the applicant and grantee, requesting grant funding from the commonwealth financing authority and designation officials to execute asocial grant documents; seconded by Councilmember Myers.**

Councilmember Waterkotte commented that this joint application does several things, it helps speed up the process of getting the project completed, it is something we have talked about for a long time, it is also going to save money, and doing the project all at once makes the most sense. He shared he has confidence that we will address the contamination so that everything will be done safely.

Councilmember Zavala shared for transparency sake, that she was lobbied by Christina and Luke and Councilmember Cramer met with them as well.

Councilmember Cramer commented that he feels this is a win-win situation that will make a significant difference for everybody in our town to be able to come down to a Birch Street that is beautiful and well-lit and with trails that everyone shares. He thanked the Trails Alliance for their advocacy.

### **PUBLIC COMMENTS**

John Thomas commented that he is in support of the trails but wants to make sure we are protected with the tunnel and that our attorney is involved.

President Mercomes called for the vote.

**The motion carried unanimously.**

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

President Mercomes shared the open positions as follows and encouraged residents to participate. Three (3) vacancies on the Advisory Commission on Latino Affairs (ACOLA), each a two (2) year term; the Civil Service Commission, has an alternate position open, which is a six year term; the Human Relations Commission has one (1) vacancy which is a two (2) year term; and the Property Maintenance Appeals Board has one (1) vacancy which is a five (5) year term. President Mercomes asked that interested individuals are required to be a resident of the Borough and should complete and send a candidacy form, along with their resume to Rachel Berkowitz, the Brough Secretary.

Councilmember Cramer commented that in the Consent agenda Council approved the legal part of letting our bond process move forward for refinancing. He shared his appreciation for Council's support and for working together to move forward. He noted there will be an additional Finance Committee meeting on September 21<sup>st</sup> regarding capital improvement projects and he thanked Borough Manager Scalise for updating that plan with some watermain projects highlighted. He thanked Council for taking proactive steps to take advantage of low interest rates to improve the community's future.

Borough Manager Scalise commented that paving starting this week on a portion of West Sickle Street and Linden Street and will be completed hopefully by the end of next week. He thanked Council, Square Roots Collective, Kennett Township and GMS for all of the collaboration that has been happening and shared that it has been productive and is very nice to see.

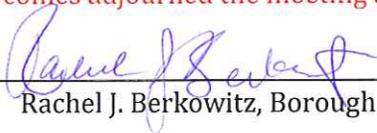
Vice President Moore shared she is excited to see that Borough Solicitor Crotty shared there is a mechanism through which the Borough could potentially bolster minority and women owned businesses in purchases. She suggested this be considered at the next meeting or send it to the Finance Committee to find a way to create a registry of minority and women owned businesses.

Councilmember Zavala agreed and suggested it having it on the next meeting agenda and also get an update on the policy surrounding the preference for supporting minority and women owned businesses.

President Mercomes thanked Councilmembers Moore and Zavala for those suggestions.

## **ADJOURNMENT**

*There being no further business, President Mercomes adjourned the meeting at 8:55p.m.*

  
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Rachel J. Berkowitz, Borough Secretary