

September 16, 2014  
Kutztown, PA

A regular meeting of the Kutztown Borough Council was called to order at 7:30 p.m. in the Kutztown Train Station by the President, Mr. Kevin Snyder, with other members of Borough Council present: Mr. James Schlegel, Mr. Edwin Seyler, Mr. Derek Mace, Ms. Rachael Martin, Ms. Peggy Devlin, and the Mayor, Ms. Sandra Green. Mr. Keith Mooney, Borough Solicitor; Mr. Gabriel Khalife, Borough Manager/Treasurer; Ms. Andrea Rahn, Assistant Borough Secretary; Police Chief Craig Summers; Mr. Mark Arnold, Telecommunications Director; Planning Commission representatives Lisa Ladd-Kidder and Andrew Arnold; Kutztown Environmental Advisory Commission representative Jeri Carroll; College Town Communities representatives Matt Genesio and Tim Sipe; Kutztown University students Dan Noon and Christopher Kril; residents Pat Stark, Donald Ziegler, Phila Back, Kim Davis, Joe Dietrich and Emils Schnore; business owners Steven Moyer, Doug Letterman and Ladd Forsline; property owners Rob Ziegler, Bob Grim and Pete Smith; and Mr. Ron Devlin, reporter for the Reading Eagle were also present.

President Snyder asked if there was anyone who wished to address Council before proceeding with the agenda.

Resident Phila Back brought up the subject of the Overlay Districts, and President Snyder asked her to postpone her comments until that portion of the meeting.

A motion was made by Mr. Schlegel, seconded by Mr. Mace, Resolved, To approve the Consent Agenda, consisting of the following items:

- Review and accept the Minutes of the August 19, 2014 Borough Council meeting.

- Review and accept the Borough Community Development Report for August, 2014.
- Take action to approve payment #11 to Wickersham Construction and Engineering, Inc., in the amount of \$173,047.00, for work completed at the Water Plant.
- Take action to approve Change Order #5, from Wickersham Construction and Engineering, Inc., in the amount of \$32,738.00, for additions to the Wastewater Treatment Plant upgrade project.
- Ratify approval for the payment of bills and necessary transfers of funds which, have been provided to Borough Council in the Accounts Payable G/L Distribution Report, including payment dates from August 14, 2014 through September 11, 2014, as summarized below:

General Fund	\$428,145.84
Refuse and Recycling Fund	\$43,721.57
Fire Protection Tax Fund	\$49.73
Recreation Tax Fund	\$79.40
Road Tax Fund	\$198.86
Water Fund	\$557,505.55
Electric Fund	\$431,502.59
Sewer Fund	\$747,109.77
Telecommunications Fund	\$91,017.57

Passed by unanimous vote.

Under Borough Planning Commission, a motion was made by Ms. Devlin, seconded by Ms. Martin, Resolved, To move forward with developing Overlay Districts within the Borough of Kutztown.

Andrew Arnold read aloud the Planning Commission's recommendation letter regarding developing Overlay Districts within the Borough.

Lisa Ladd-Kidder spoke against the Planning Commission's recommendation because she thinks that the motion is too broad.

President Snyder questioned if Council was being asked to consider Overlay Districts for the entire Borough or an Overlay District for one particular area.

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Mr. Arnold clarified that the Planning Commission intended for “Overlay Districts” to be plural and that they do not want to continue wasting time on something that Council does not support.

Mr. Mooney stated that the Borough can approve as many or as few Overlay Districts as desired, and that the question at hand is whether or not Council wants to proceed with an Overlay District to accommodate the proposed development in the Silk Mill District. He further stated that the Borough is under no obligation to approve an Overlay District; however, the Planning Commission and the developer need an answer.

Resident Phila Back expressed her objections to a Overlay Districts and to the proposed development because she fears it will bring more student housing to town.

President Snyder explained that Council is only considering moving forward with the development of Overlay Districts at this time, and if approved, it doesn’t necessarily mean that any particular project will also be approved.

Mr. Seyler expressed his curiosity on how an Overlay District would benefit Kutztown and he stated that he would like the Planning Commission to continue.

Ms. Martin acknowledged the fact that she is a leasing agent for the developer interested in utilizing an Overlay District, but she stated that she is not financially or personally attached to the proposed development. She expressed her appreciation to the Planning Commission for their work and she recognized their lack of guidance from Council. She introduced a discussion about an Ordinance drafted by SSM Group, Inc., that she feels covers the concerns of residents, Council and Planning Commission members. She noted that the draft Ordinance gives the Borough a great chance at

designing an Overlay District to Council's specifications and that she would like to see a final draft presented to Council in October.

Bob Grim spoke in opposition to Overlay Districts. He also stated that the proposed development would be harmful to current downtown businesses and that additional student housing is bad for the town as well. Mr. Grim acknowledged Ms. Martin to be a "good public servant," but he stated that he thinks it is a violation of the "Public Official and Employee Ethics Act" for her to comment and second a motion on a vote that involves the developer for whom she works.

Mr. Mooney responded with his opinion that Ms. Martin can talk about and vote on the Ordinance, but not on the proposed development that is tied to her employer.

Mr. Grim disagreed with Mr. Mooney and asked to have the following excerpts from the "Public Official and Employee Ethics Act" put on the official record:

1. Declarations – The Legislature hereby declares that public office is a public trust and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust.
2. Conflict or Conflict of Interest – Use by a public official or public employee of the authority of his office or employment or any confidential information received through his holding public office or employment for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated.
3. Conflict of Interest – No public official or public employee shall engage in conduct that constitutes a conflict of interest.
4. Voting Conflict – Any public official or public employee who in the discharge of his official duties would be required to vote on a matter that would result in a conflict of interest shall abstain from voting and, prior to the vote being taken, publicly announce and disclose the nature of his interest as a public record in a written memorandum filed with the person responsible for recording the minutes of the meeting at which the vote is taken.

Mr. Mace expressed his opinion that the Planning Commission and Council

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should refer to the Comprehensive Plan on guidance for how to proceed, and that would be to vote “no” for Overlay Districts.

Mr. Arnold asked if there is anything specific that Council would want prohibited from Overlay Districts that should be included in the Ordinance. Mr. Seyler stated that he would like to see student housing prohibited, and Ms. Martin stated that she would like to see single family homes prohibited from being turned into student housing, as well as the exclusion of strip malls.

After more than an hour long discussion, Ms. Devlin withdrew her motion to move forward with developing Overlay Districts within the Borough of Kutztown, and Ms. Martin withdrew her seconding of the motion, and it was the consensus of Council.

A motion was made by Ms. Devlin, To move forward with developing an Overlay District, on the industrial zone, with a restriction on student housing. The motion failed for lack of a second.

Ms. Martin indicated that she would like to be proactive regarding some ongoing problems in town, such as student housing, parking and vandalism, and that the Planning Commission could potentially identify the areas where change is needed.

A motion was made by Ms. Martin, seconded by Mr. Mace, Resolved, To request the Planning Commission to come to Council with some targeted areas that we would like to look at changing by either correcting zoning, creating overlays or whatever it is to correct some of the issues that we have. Passed by unanimous vote.

Mayor Green stated that she does not believe industry is coming back to Kutztown, and that we need to use creative thinking to start developing what we have in town that is not being used and often being vandalized.

Mr. Arnold read aloud the Planning Commission’s letter recommending that Council conditionally approve the Edge II Sewer Planning Module, subject to the developer addressing Item Nos. 4 and 5, and obtaining appropriate signatures for Component 3.

A motion was made by Mr. Schlegel, seconded by Mr. Mace, Resolved, To conditionally approve the Edge II Sewer Planning Module, subject to the developer addressing Item Nos. 4 and 5, and obtaining appropriate signatures for Component 3. Passed by unanimous vote.

Under Environmental Advisory Commission, there was nothing to report.

Under Community Development and Public Safety Committee, Mr. Schlegel submitted the Monthly Police Report for August, 2014.

Mr. Schlegel reported the following fines were collected:

District Justice Greth	July, 2014	\$5,667.67
Clerk of Common Pleas	July, 2014	\$98.99
Secretary’s Office	August, 2014	\$1,750.00

A motion was made by Ms. Devlin, seconded by Mr. Seyler, Resolved, To approve the parade route for Downtown Trick-or-Treat Night on Main Street, to be held on Wednesday, October 29, 2014, from 6:00 p.m. until 8:00 p.m. Passed by unanimous vote.

A motion was made by Ms. Devlin, seconded by Mr. Seyler, Resolved, To pursue “Stars in the Streets;” also known as the “Kutztown Hex Sign Intersection Project.” Passed by unanimous vote.

Under Public Works Committee, a motion was made by Mr. Seyler, seconded by Ms. Martin, Resolved, To approve the 2014-2015 Snow Program. Passed by unanimous

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vote.

A motion was made by Ms. Devlin, seconded by Mr. Mace, Resolved, To authorize the Environmental Advisory Commission to install “Grow Zone” signs along the Constitution Boulevard riparian buffer. Passed by unanimous vote.

Execution of the Service Agreement with Berkshire Systems Group, Inc., for fire and security monitoring was tabled.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To renew the Acceptance Agreement with Signal Service, Inc., for traffic signal maintenance. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To authorize Creekside Property Services to cut the grass every other week at the detention ponds in Carriage Point, at a cost of \$150.00 per mowing, through the end of October. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, To approve the Parks Facility Rental Agreement for the 2015 Taste of Kutztown event to take place in the park on June 6, 2015. Passed by unanimous vote.

Mr. Khalife noted that he will clarify with the Borough’s insurance company whether or not alcohol sales and consumption are permitted in the park.

Off of the agenda, a motion was made by Mr. Seyler, seconded by Ms. Devlin, Resolved, To approve the change order for a restroom drinking fountain, in the Kutztown Park, at a cost of \$1,269.00. Passed by unanimous vote.

Under Personnel Committee, a motion was made by Mr. Seyler, seconded by Ms. Martin, Resolved, To reappoint Erma Bond as a member of the Housing License Appeals

Board, whose term shall expire on October 1, 2015. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Martin, Resolved, To appoint Nathan Lewis as a member of the Environmental Advisory Commission, whose term shall expire on October 1, 2017. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Martin, Resolved, To appoint Jacob Sewall as a member of the Zoning Hearing Board, whose term shall expire January 1, 2017. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Martin, Resolved, To accept the resignation of David Remaley, from the Zoning Hearing Board, effective September 1, 2014. Passed by unanimous vote.

Ms. Martin noted that she would like Mr. Remaley to receive a plaque and a letter in recognition of his years of service.

A motion was made by Mr. Seyler, seconded by Ms. Devlin, Resolved, To accept the resignation of Cindi Marsteller, from the Borough Planning Commission, effective September 5, 2014. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Martin, Resolved, To accept the resignation of Library Clerk Christine Weida, effective August 31, 2014. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Devlin, Resolved, To hire Mary Friedle, as a Library Clerk, contingent upon passing all clearances. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To hire Donna Farly, as a Library Clerk, contingent upon passing all clearances. Passed by



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unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Martin, Resolved, To adopt the following Resolution:

## RESOLUTION NO. 9-2014

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, DECLARING THAT FIVE PERCENT CONTRIBUTION IS REQUIRED BY EACH FULL-TIME POLICE OFFICER OF THE BOROUGH OF KUTZTOWN, NOW OR HEREAFTER ELIGIBLE FOR PARTICIPATION IN THE POLICE PENSION PLAN, INTO THE POLICE PENSION FUND FOR THE CALENDAR YEAR 2015.

WHEREAS, the members of the Council of the Borough of Kutztown, Berks County, Pennsylvania were notified on September 19, 2014 of the 2015 Minimum Municipal Obligation for the Police Pension Plan, after consulting with the Plan's actuary; and

WHEREAS, the calculation of the 2015 Minimum Municipal Obligation for the Borough of Kutztown Police Pension Plan requires that each full-time police officer of the Borough of Kutztown, now or hereafter eligible for participation in the Police Pension Plan, contribute into the Police Pension Fund during the calendar year of 2015.

NOW, THEREFORE, BE IT RESOLVED, that a five percent contribution is required to be made into the Police Pension Fund for the calendar year 2015, by each full-time police officer of the Borough of Kutztown, now or hereafter eligible for participation in the Police Pension Plan for the calendar year of 2015, as provided for in §33-8, of the Code of the Borough of Kutztown, Berks County, Pennsylvania.

ADOPTED AND RESOLVED by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in a lawful session duly assembled this 19<sup>th</sup> day of September, 2014.

Passed by unanimous vote.

Mr. Seyler noted the 2015 Minimum Municipal Obligation (MMO) for Non-uniformed and Uniformed employee pension plans has been distributed to Council.

A motion was made by Mr. Seyler, seconded by Ms. Martin, Resolved, To accord regular full-time employment to Public Works Laborer I, Chad Gechter, who has



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Christopher Kril, Student Ambassador to the Mayor.

President Snyder called for an Executive Session at 9:17 p.m. to discuss legal and personnel matters. The Executive Session ended and the meeting reconvened at 9:41 p.m.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To appoint Kenny Gilmore to the position of Uncertified Operator in the Water Department. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Martin, Resolved, To adjourn the Council meeting upon vote. Passed by unanimous vote. The meeting ended at 9:41 p.m.

Prepared by: Gina M. Wiand  
Borough Secretary

Attested by: Andrea Rahn  
Assistant Borough Secretary

Kevin Snyder and Gina Wiand hereby ordered payment of the expenditures listed in the Accounts Payable G/L Distribution Report, including payment dates from August 14, 2014 through September 11, 2014, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

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Kevin Snyder

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Gina M. Wiand