A regular meeting of the Kutztown Borough Council was called to order at 7:34 p.m. in the Kutztown Train Station by the President, Mr. Kevin Snyder, with other members of Borough Council present: Mr. Malcolm Eidle, Mr. Edwin Seyler, Mr. James Schlegel, Mr. Derek Mace, Ms. Rachael Birckbichler and the Mayor, Ms. Sandra Green. Mr. Keith Mooney, Borough Solicitor; Ms. Laura Eberly, representing the Borough’s planning and water/wastewater engineering firm of SSM Group, Inc.; Mr. Gabriel Khalife, Borough Manager/Treasurer; Ms. Gina M. Wiand, Borough Secretary/Director of Marketing Communications and Customer Relations; Mr. Frank P. Caruso, Director of Information Technologies; Mr. Walter J. Hess, Superintendent of Water and Wastewater; Mr. Daniel Eslinger, Director of Community Development/Zoning Officer; Police Chief Craig Summers; Ms. Andrea Rahn, Payroll Clerk/Administrative Assistant to the Human Resources Director/Assistant Borough Secretary; Kutztown Planning Commission representatives Karen Feridun and Andrew Arnold; Ms. Lisa Mitchell, reporter for the Kutztown Area Patriot; and Mr. Valdis Lacis, reporter for the Reading Eagle were also present.

President Snyder thanked Michael Werner for the presentation he gave before the Council meeting: “Over Here as Over There? Comparing Cultural Patterns of the Pennsylvania Germans and Palatines in Germany.”

President Snyder asked if there was anyone who wished to address Council before proceeding with the agenda. There were no public comments.

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

- Review and accept the Minutes of the April 17, 2012 Borough Council meeting.
- Review and accept the Borough Community Development Report for April, 2012.
- 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 April 13, 2012 to May 10, 2012, as summarized below:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$175,144.36</td>
</tr>
<tr>
<td>Refuse and Recycling Fund</td>
<td>$42,946.10</td>
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<tr>
<td>Fire Protection Tax Fund</td>
<td>$37.25</td>
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<tr>
<td>Recreation Tax Fund</td>
<td>$59.49</td>
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<tr>
<td>Road Tax Fund</td>
<td>$149.12</td>
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<tr>
<td>Water Fund</td>
<td>$76,848.96</td>
</tr>
<tr>
<td>Electric Fund</td>
<td>$511,380.74</td>
</tr>
<tr>
<td>Sewer Fund</td>
<td>$72,524.53</td>
</tr>
<tr>
<td>Telecommunications Fund</td>
<td>$66,839.27</td>
</tr>
<tr>
<td>Unemployment Comp Escrow Fund</td>
<td>$11,387.90</td>
</tr>
</tbody>
</table>

Passed by unanimous vote.

Under Borough Planning Commission, Karen Feridun read aloud the Planning Commission’s recommendation to repeal and re-enact the proposed updated Floodplain Ordinance.

Mr. Mooney asked if there were any public comments regarding the proposed updated Floodplain Ordinance. There were no public comments.

A motion was made by Mr. Mace, seconded by Mr. Schlegel, Resolved, To enact and ordain the following Ordinance:

**ORDINANCE NO. 2-2012**

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE BOROUGH OF KUTZTOWN WHICH ARE SUBJECT TO FLOODING; AND ESTABLISHING
PENALTIES FOR ANY PERSONS WHO FAIL, OR REFUSE TO COMPLY WITH, THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

Passed by unanimous vote.

Ms. Feridun read aloud the Planning Commission’s recommendation to approve the proposed Act 13 Challenge Resolution.

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

RESOLUTION NO. 10-2012

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, IN SUPPORT OF ACT 13 CHALLENGE.

Whereas, on February 14, 2012, the Pennsylvania General Assembly enacted Act 13, legislation that is to the detriment of local governments and to those who reside in Pennsylvania's 2,563 municipalities; and,

Whereas, Act 13 requires municipalities to allow oil and gas operations except for processing plants in all zoning districts, and consequently infringes upon the rights of local governments throughout the Commonwealth to protect the health, safety, and welfare of its citizens; and,

Whereas, any local ordinance that regulates oil and gas operations is subject to Act 13's sweeping restrictions, as well as its serious threat of litigation and attorneys' fees; and

Whereas, Act 13 removes all meaningful zoning and planning authority from local governments as to the oil & gas industry, while all other entities, be they individual, corporate, or institutional, still must abide by local ordinances; and,

Whereas, Act 13 does not account for the profound differences in the character, landscape, resources, economy, and government of Pennsylvania's municipalities;

NOW, THEREFORE IT IS HEREBY RESOLVED by the Council of the Borough of Kutztown, County of Berks, Commonwealth of Pennsylvania, that it does hereby stand in opposition to Act 13. The Act removes from local governments the ability to meaningfully legislate in a manner that protects the health, safety, and welfare of its citizens by addressing localized concerns raised by oil and gas development. The Kutztown Borough Council opposes the conveyance of special rights and privileges to the oil and gas industry, to the detriment of the rights and privileges of all others. Act 13
violates both the Pennsylvania and U.S. Constitutions, creating a zoning scheme that supersedes the protections local officials are sworn to uphold; as well as the health, safety and welfare of its residents that local officials must protect.

FURTHERMORE, IT IS HEREBY RESOLVED that the Kutztown Borough Council joins with other municipalities and local elected officials in their opposition to Act 13. Act 13 removes from the Borough of Kutztown the meaningful ability to protect its citizens and address local concerns about oil and gas development. We therefore endorse the efforts of the Delaware Riverkeeper Network and the municipalities challenging the validity of Act 13: Cecil Township, Mount Pleasant Township, Nockamixon Township, Peters Township, Robinson Township, South Fayette Township and Yardley Borough.

DULY ADOPTED as a Resolution this 15th day of May, 2012, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled.

Passed by unanimous vote.

Ms. Feridun read aloud the Planning Commission’s recommendation to deny the variance requested for 37 Willow Street (Zoning Appeal No. Z-12-01).

A motion was made by Ms. Birckbichler, seconded by Mr. Schlegel, Resolved, To support the Planning Commission’s recommendation to deny the variance requested for 37 Willow Street (Zoning Appeal No. Z-12-01), and to send Solicitor Keith Mooney to the hearing on behalf of the Borough. Passed by unanimous vote.

Ms. Feridun read aloud the Planning Commission’s recommendation, for Zoning Appeal No. Z-12-02, regarding 50 Apple Alley.

A motion was made by Mr. Schlegel, seconded by Mr. Mace, Resolved, To support the Planning Commission’s recommendation regarding Zoning Appeal No. Z-12-02, which is contingent upon the applicant submitting a plan, in writing, that addresses the following concerns:
• Hours of operation
• Storage to be limited to residential storage and not commercial storage
• Proper management of the facility during peak move in and move out weekends for students
• Facility is not accessible after designated hours

Passed by unanimous vote.

Ms. Feridun read aloud the Planning Commission’s recommendation to appoint Patricia Snyder to the Planning Commission.

A motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, To appoint Patricia Snyder to a full term as a member of the Planning Commission. Passed by unanimous vote.

Under Environmental Advisory Commission, Karen Feridun reported that they have identified the recipient of their annual award; however, she did not reveal the recipient. She also noted that they are looking for new Commission members.

Under Community Development and Public Safety Committee, off of the agenda, Michael Werner proposed bringing a sign program to Kutztown that would make the German culture more visible to foreign tourists. Ms. Birckbichler suggested possibly getting Berks County involved with the program. Mr. Mace said that he would refer this idea back to the Committee for further discussion and investigation.

Mr. Mace submitted the Monthly Police Report for April 2012.

Mr. Mace reported the following fines were collected:

<table>
<thead>
<tr>
<th>Department</th>
<th>Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Justice Greth</td>
<td>March, 2012</td>
<td>$7,556.16</td>
</tr>
<tr>
<td>Clerk of Common Pleas</td>
<td>March, 2012</td>
<td>$186.75</td>
</tr>
<tr>
<td>Secretary’s Office</td>
<td>April, 2012</td>
<td>$8,540.00</td>
</tr>
</tbody>
</table>

A motion was made by Mr. Mace, seconded by Mr. Schlegel, Resolved, To approve the request from the Kutztown Community Partnership to close Baldy Street,
between Main Street and Sacony Alley, on Thursdays, from June 2012, through October 2012, for the Growers Market, contingent upon the submission of a parade permit application. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Mr. Schlegel, Resolved, To approve the recommendation from Kutztown Community Partnership President John Scott, for the Borough of Kutztown to become a member of the Northeast Berks Chamber of Commerce, at a cost of $100.00 per year. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Mr. Eidle, Resolved, To execute the Promissory Note and Security Agreement, regarding the Public Safety Radio Program, and to authorize Council President Kevin Snyder to sign the Promissory Note on behalf of the Borough. Passed by unanimous vote.

Under Public Works Committee, a motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To award the bid received from EJB Paving and Materials Co., for the 2012 Street and Storm Sewer Improvements Project, in the amount of $263,887.00, for Alternate Bid No. 3. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Mr. Eidle, Resolved, To approve the request from the Dolphins Swim Team to use the pool facilities for swim team practices, Monday through Friday, from 8:00 a.m. until 11:00 a.m., for the dates June 11, 2012 through August 7, 2012. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Ms. Birckbichler, Resolved, To ratify the request from the Kutztown Community Partnership to use the Train Station, on May 8, 2012, for a Business Development Workshop, and to waive any associated rental fees. Passed by unanimous vote.
A motion was made by Ms. Birckbichler, seconded by Mr. Mace, Resolved, To approve the request from the Dolphins Swim Team to open the pool late on Sunday, July 15, 2012, because they are hosting an invitational swim meet, from 8:00 a.m. until 2:00 p.m.  Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Seyler, Resolved, To approve the request to close Constitution Boulevard, between Trexler Avenue and Deisher Lane, on May 19, 2012, from 8:00 a.m. to 12 noon, for the Annual Cub Scout Soapbox Derby, and to waive any associated barricade fees.  Passed by unanimous vote.

Under Personnel Committee, a motion was made by Mr. Seyler, seconded by Ms. Birckbichler, Resolved, To authorize the Borough Manager to hire a temporary Operations Coordinator with Technical Skills as selected by the management staff interview committee. Passed by unanimous vote.

President Snyder noted that the office location of the temporary Operations Coordinator with Technical Skills was settled, and that further discussion was unnecessary.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To offer summer employment, in the Wastewater Department, to David Weaknecht.  Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Eidle, Resolved, To approve the Contract for Professional Services, with Sheila Sacks, for graphic design services.  Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To conditionally hire the following 2012 seasonal pool employees, contingent upon meeting
all pre-employment requirements: William Collier, head lifeguard, $9.84 per hour; Kelsey Brey, lifeguard, $8.84 per hour; Patrick Brown, lifeguard, $8.84 per hour; Alexis Cascino, lifeguard, $8.84 per hour; Andrea Cascino, lifeguard, $8.84 per hour; Natalie Cascino, lifeguard, $8.00 per hour; Christopher Collier, lifeguard, $7.74 per hour; Patrick Erb, lifeguard, $8.84 per hour; Hannah Fritz, lifeguard, $8.84 per hour; Kacy Houser, lifeguard, $8.84 per hour; Christian Kanaskie, lifeguard, $7.74 per hour; Trevor Kanaskie, lifeguard, $8.38 per hour; Nicholas Lowry, lifeguard, $8.84 per hour; Katelyn Remp, lifeguard, $8.84 per hour; Tammy Touhsaent, lifeguard, $8.00 per hour; Joshua Leibensperger, office clerk, $7.55 per hour; Emily Miller, office clerk, $7.55 per hour; Tyler Williams, office clerk, $7.55 per hour; Gwendolyn Dietrich, head swim coach, $1,600 for the season; Peter Vernon, assistant swim coach, $800 for the season; and Katelyn Remp, assistant swim coach, $600 for the season. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Eidle, Resolved, To approve the proposed Borough enrollment in an Employee Assistance Program. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Birckbichler, Resolved, To promote Christine Gingrich to the position of Library Clerk II. Passed by unanimous vote.

Off of the agenda, a motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To authorize a 2.5% pay increase, for Roseanne Perkins, retroactive to January 1, 2012. Passed by unanimous vote.

Under Finance and Electric Committee, a motion was made by Mr. Eidle, seconded by Mr. Mace, Resolved, To adopt the following Resolution:
RESOLUTION NO. 11-2012

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AMENDING CHAPTER A231-1, SECTION 107-7, OF THE CODE OF THE BOROUGH OF KUTZTOWN BY AMENDING THE RATES FOR THE RELIABILITY PRICING MODEL SUPPLY CAPACITY CHARGE IN CONNECTION WITH LARGE GENERAL SERVICE ELECTRIC SERVICE FURNISHED TO CONSUMERS EFFECTIVE JUNE 1, 2012, WITH SAID RATES TO REMAIN IN EFFECT UNTIL CHANGED BY RESOLUTION, AND SUPERSEDING ANY AND ALL RESOLUTIONS AND PARTS OF RESOLUTIONS INCONSISTENT WITH THIS RESOLUTION.

WHEREAS, the Council of the Borough of Kutztown from time to time adopts Resolutions establishing the rates to be charged for electrical service furnished to consumers, by authority of the duly enacted ordinances of the Borough of Kutztown, Berks County, Pennsylvania.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Kutztown, Berks County, Commonwealth of Pennsylvania as follows:

SECTION 1 - Section A231-1, Chapter 107 of the Code of the Borough of Kutztown is hereby amended by repealing the Reliability Pricing Model Supply Capacity Charge, applicable to large general service customers being served by available 3-phase lines of 69,000 volts or higher as set forth in Resolution 20-2011, and amending it to read as follows:

RELIABILITY PRICING MODEL SUPPLY CAPACITY CHARGE

In addition to the other charges, a supply capacity charge shall apply to rate schedule KF. The charge shall be based on the customer’s peak load contribution to the Borough’s PJM planning year peak load determinant for PJM Reliability Pricing Model Capacity charges. The charge shall be the product of the customer’s fixed peak load contribution, as determined by the Borough, and the Borough’s Reliability Pricing Model Capacity Charge, incurred by the Borough, expressed in dollars per kilowatt-month.

The customer’s fixed peak load contribution shall be determined using load data from the previous planning year. In the event the load data is not available, the Borough will estimate the customer fixed peak load contribution.

For June 1, 2012 through May 31, 2013, the Reliability Pricing Model Capacity Charge shall be $4.54 per KW-Month and the fixed peak load contribution shall be 2,763 KW.

The Pennsylvania state tax is applied as required by the Pennsylvania Department of Revenue.
SECTION 2 – All other rate schedules set forth in Chapter A-231 of the Code of the Borough of Kutztown shall remain unchanged and in full force and effect.

SECTION 3 – All Resolutions or parts of Resolutions inconsistent with this Resolution are hereby superseded.

DULY ADOPTED AS A RESOLUTION this 15th day of May, 2012, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled to be effective beginning June 1, 2012 and applicable to all electric bills issued on or after July 1, 2012, until superseded by a duly adopted Resolution of the Council of the Borough of Kutztown.

Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Mace, Resolved, To hire Conrad Siegel Actuaries to prepare the GASB 45 report on post-employment health care and other non-pension benefits, for an estimated fee of $4,000-$4,500. Passed by unanimous vote.

Mr. Eidle noted that the Finance Director will draft a financial policy, based on information from AMP, to be reviewed by the Committee and presented to Council during a future meeting.

Mr. Eidle also noted that there will be a presentation, at the June Council meeting, regarding the restructuring of the Borough’s telecommunications debt service.

Under Telecommunications and Information Technologies Committee, a motion was made by Ms. Birckbichler, seconded by Mr. Schlegel, Resolved, To approve the proposed letter that addresses rumors regarding Home Net, and to authorize publishing it in the spring/summer Kutztonian News. After further discussion, Ms. Birckbichler withdrew her motion, and it was the consensus of Council.
A motion was made by Ms. Birckbichler, seconded by Mr. Mace, Resolved, To authorize sending the proposed letter that addresses rumors regarding Home Net, as written, to The Edge and Garden Apartments; and to publish a modified version of the same letter in the spring/summer Kutztonian News. Passed by unanimous vote.

A motion was made by Ms. Birckbichler, seconded by Mr. Schlegel, Resolved, To approve moving the Telecommunications and Information Technologies Committee meetings and the Telecommunications Advisory Commission meetings to the former Council Room. Passed by unanimous vote.

Under Water and Wastewater Committee, a motion was made by Mr. Schlegel, seconded by Mr. Mace, Resolved, To approve the Kutztown Municipal Authority’s request for one EDU of water capacity for 33 Commons Road. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Mr. Eidle, Resolved, To authorize SSM Group to advertise for bids for the Wastewater Treatment Plant Improvements Project after the Chapter 106 DEP permit is received. Passed by unanimous vote.

Under Miscellaneous, a motion was made by Mr. Schlegel, seconded by Mr. Seyler, Resolved, To appoint Mayor Green as the official voting delegate to represent the Borough of Kutztown at the 2012 PLCM 113th Annual Convention in Pittsburgh, PA, from June 19-22, 2012. Passed by unanimous vote.

President Snyder noted that the Sacony Creek Regional Authority is seeking three members to serve the following terms: one one-year term, one two-year term and one three-year term.
President Snyder noted the following vacancies:

- Borough Planning Commission: One Member Vacancies
- Code Appeals Board: One Alternate Vacancy
- Housing License Appeals Board: Three Alternate Vacancies
- Zoning Hearing Board: Two Alternate Vacancies
- Environmental Advisory Commission: Three Member Vacancies
- Telecommunications Advisory Commission: Two Member Vacancies

Off of the agenda, Mr. Schlegel noted that Telecommunications Advisory Commission member Gordon Konemann passed away, and he extended the Borough’s condolences to the family.

A motion was made by Mr. Schlegel, seconded by Mr. Mace, Resolved, To adjourn the Council meeting upon vote. Passed by unanimous vote. The meeting ended at 8:31 p.m.

Prepared and Attested by: Gina M. Wiand
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 April 13, 2012 to May 10, 2012, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.