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, and the Mayor, Ms. Sandra Green. Ms. Rachael Martin and Ms. Peggy Devlin
were absent. Mr. Keith Mooney, Borough Solicitor; Mr. Kent Morey, 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. Daniel
Eslinger, Community Development Director/Zoning Officer; Police Chief Craig
Summers; Maxatawny Township resident Allen Gehringer; Kutztown University student
Letecia Garcia; Counsel for BET Investments Rob Gundlach; Borough Planning
Commission representative Andrew Arnold; College Town Communities representatives
Matt Genesio and Tim Sipe; Mr. Ron Devlin, reporter for the Reading Eagle; and Mr. Joe
Brown, reporter for the Kutztown Area Patriot were also present.

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

Matt Genesio, from College Town Communities, stated that he hopes the
Planning Commission will bring a recommendation to Council at their September
meeting so that the Overlay District project can progress.

A motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, To
approve the Consent Agenda, consisting of the following items:
• Review and accept the Minutes of the July 15, 2014 Borough Council meeting.

• Review and accept the Borough Community Development Report for July, 2014.

• Authorize the Borough Manager to renew the agreement with LIHEAP (Low Income Home Energy Assistance Program).

• Ratify approval of the request from the Kutztown Area School District Drug Task Force to use the Brick Pavilion on July 29, 2014, and to waive any associated fees.

• Ratify approval of the request from the Kutztown Cougar Youth Football and Cheerleading Association to use the Multi-Purpose Field from August 4, 2014, through November 30, 2014.

• Ratify approval of the request from the Kutztown Cougar Youth Football and Cheerleading Association to renew the Babe Ruth Concession Stand Lease Agreement for August 16, 2014, through November 9, 2014.

• Take action to approve payment #10 to Wickersham Construction and Engineering, Inc., in the amount of $259,791.00, for work completed at the Water Plant.

• Take action to approve payment #22 to Wickersham Construction and Engineering, Inc., in the amount of $199,628.00, for work completed at the Wastewater Treatment Plant.

• Take action to approve Change Order #13, from Wickersham Construction and Engineering, Inc., in the amount of $249.00, for the Water Plant Project.

• Take action to approve Change Order #14, from Wickersham Construction and Engineering, Inc., in the amount of $10,076.00, for the Water Plant Project.

• Take action to approve Change Order #15, from Wickersham Construction and Engineering, Inc., in the amount of $3,894.00, for the Water Plant Project.

• Take action to approve Change Order #16, from Wickersham Construction and Engineering, Inc., in the amount of $5,070.00, for the Water Plant 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 July 11, 2014 through August 13, 2014, as summarized below:
Passed by unanimous vote.

Under Borough Planning Commission, Andrew Arnold read aloud the Planning Commission’s recommendation letter approving the five waivers requested by BET Investments regarding the “Edge II” land development proposal on College Boulevard.

Kent Morey, from SSM Group, Inc., read aloud the following waiver requests:


The relevant portion provides that each section in any residential subdivision or land development, except for the last section to be developed, shall contain a minimum of 25% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the Borough Council in its discretion:

This is a partial waiver. The proposed Phase 1 is to consist of the initial 3 apartment buildings containing 75 units along with the associated recreational facilities and clubhouse. The proposed Phase 2 is to consist of 3 apartment building containing 75 units and 220 cottage duplexes. The percentage of units in Phase 1 against all of the units in the project will be just over 20%. The number of proposed units for Phase 1 are what is viable to construct at this time given the anticipated demand for additional housing by the university students. Construction of additional units in Phase 1 would cause the Applicant to experience the undue burden of construction costs associated with empty units.

2. §195-36(B)7

Hydrogeologic impact study should be provided:

Such study would not be meaningful for the Project as the proposed project will not involve any groundwater withdrawal because it is proposed to connect to public water and sewer. Also, all stormwater impacts will be addressed as part of the NPDES permitting process. A detailed report has been included with this submission. Furthermore, such testing would be invasive and costly thereby placing an undue burden on the Applicant.

3. §195-20.H.4

Intersections/Straight Area:

This is a partial waiver as only the straight portion approaching the first intersection from College Boulevard is the only intersection that does not meet this requirement. This intersection has been revised so that the driveway be exit only allowing this intersection to function safely and meet the intent of the ordinance.
4. 

$195-20.1.b.$

Clear Sight Triangles:

The area involving the intersections of these access drives will meet the requirements of the clear sight triangles with the exception of the parking spaces in several locations. The clear sight distances have been met at all intersections to ensure the safety of these intersections is met. These intersections are also being controlled with stop signs as appropriate to enhance the safety of the intersection.

5. 


Traffic Impact Study (TIS) identifying daily traffic volumes:

It is our opinion that providing this detail will not add anything to the data that is already presented as part of the Traffic Impact Study (TIS) and that the Borough has enough information to make a thorough review of the traffic impact of this development on the Borough without this information. The study would be duplicative work and therefore would cause undue cost burden on the Applicant.

A motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, To approve waiver Nos. 1, 3 and 5, as listed, and to approve waiver No. 2, subject to required documentation as specified in the SSM review letter from Kim Fasnacht dated July 7, 2014. Passed by unanimous vote.

Andrew Arnold read aloud the Planning Commission’s recommendation letter approving the preliminary plans for BET Investments’ “Edge II” land development proposal on College Boulevard pending completion of the following list of contingencies:

a. All remaining recommendations recorded in the July 7, 2014 SSM review letter by Kim Fasnacht be completed.

b. All legal concerns brought up by the Borough solicitor be satisfied.

c. All requirements by the DEP review be satisfied.

d. All conditions for NPDES approval be met.

Mr. Mace stated that the last set of plans he reviewed included a required 50’ buffer between the stream and the development.

Peter Clelland, from BET Investments, countered that they received their
jurisdictional determination from the Army Corps of Engineers stating that the watercourse that runs from the bypass to the wetland area is not a stream, therefore, no buffer is required.

Mr. Snyder asked for a copy of the jurisdictional determination from the Army Corps of Engineers. Mr. Mace stated that the definition of that watercourse, in the Borough’s Ordinance, indicates that it is a stream, and if the Army Corps of Engineers determination supersedes the Borough’s definition, he would like a copy of that as well.

Kutztown University student Letecia Garcia read aloud a letter from Anne E. Zayaitz, Ph.D., Dean on the College of Liberal Arts and Sciences at Kutztown University, which expressed her concerns about the environmental impact the development would have particularly on the Ronald R. Rhein Environmental Study Area.

Rob Gundlach, Counsel for BET Investments, stated that the plans are in compliance with the Borough’s Comprehensive Plan and that he thinks the development has been designed with the least possible amount of disturbance to the environment.

Mr. Mooney commented that he thinks the developer can accomplish the contingencies requested by the Planning Commission, as recommended by SSM, and that an agreement can be reached.

After Council and the mayor reviewed the plans with the developer, Mr. Eslinger reminded Council that he has worked very closely with SSM on many projects and since the Borough pays for their services and has followed their recommendations in the past, we would do well to continue following their advice.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To approve the preliminary plans for BET Investments’ “Edge II” land development
proposal on College Boulevard dependent upon the following contingencies: a. All remaining recommendations recorded in the July 7, 2014 SSM review letter by Kim Fasnacht be completed; b. All legal concerns brought up by the Borough solicitor be satisfied; c. All requirements by the DEP review be satisfied; and d. All conditions for NPDES approval be met; and finally, that a traffic study must be conducted. All in favor, except Mr. Mace, who voted Nay. There being a majority in favor, the motion passed.

Under Environmental Advisory Commission, there was nothing to report.


Mr. Schlegel reported the following fines were collected:

<table>
<thead>
<tr>
<th>Source</th>
<th>Month</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Justice Greth</td>
<td>June</td>
<td>$5,520.22</td>
</tr>
<tr>
<td>Clerk of Common Pleas</td>
<td>June</td>
<td>$1,003.90</td>
</tr>
<tr>
<td>Secretary’s Office</td>
<td>July</td>
<td>$400.00</td>
</tr>
</tbody>
</table>

Under Public Works Committee, Mr. Snyder acknowledged the Optimist Club and Sanders Masonry for donating the new benches in the park.

Off of the agenda, a motion was made by Mr. Schlegel, seconded by Mr. Mace, Resolved, To authorize the Borough Manager to execute the construction contract for the park bathrooms with YSM. Passed by unanimous vote.

Off of the agenda, a motion was made by Mr. Schlegel, seconded by Mr. Mace, Resolved, To approve the herring bone brick pattern for the crosswalks on Main Street. Passed by unanimous vote.

Mr. Eslinger reported on damage to downspouts on Noble Street that were recently paved over by a contractor.

Under Personnel Committee, a motion was made by Mr. Seyler, seconded by Mr.
Mace, Resolved, To reappoint Timothy Haring as a member of the Borough Planning Commission, whose term shall expire on September 1, 2018. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To accept the resignation of part-time Library Clerk Cynthia Brey, with regret, effective October 1, 2014. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To accept the resignation of First-Class Lineman Jase Smolnik, with regret, effective August 29, 2014. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To approve the revised Employee Handbook that was adopted on March 18, 2014, as it only applies to non-uniformed employees, with the understanding that certain policies from the Employee Handbook will be adopted for the uniformed employees, if not already adopted by Resolution. Note: If there are any policies in the Employee Handbook that conflict with any labor agreements, the labor agreements will supersede the Employee Handbook. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To hire Ronald T. Kriebel, as a Community Service Officer II, contingent upon passing all clearances. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To hire Randall Eschbach, as a Community Service Officer II, contingent upon passing all clearances. Passed by unanimous vote.

An Executive Session to discuss legal and personnel matters was deferred until the end of the meeting.
Under Finance and Electric Committee, Mr. Khalife presented Borough Council with a 2014 year-to-date budget report, including the following topics: Salaries, Service/Utility Performance, General Fund Revenues and Projects and Capital.

Mr. Khalife noted that the budget process has begun and that it will be tight again in 2015.

Mr. Mace expressed his disappointment that the Haring Foundation declined to participate in building a Keith Haring playground in the Kutztown Park. He offered his appreciation to Council for holding off on a design until that decision was made.

Under Telecommunications and Information Technologies Committee, a motion was made by Mr. Schlegel, seconded by Mr. Seyler, Resolved, To ratify the approval of the Standard Terms of Engagement for Legal Services by Paul Hudson, of Davis Wright Tremaine LLP, to be the agent for Service of Process, for the Borough of Kutztown’s FCC 499A filings. Passed by unanimous vote.

Off of the agenda, a motion was made by Mr. Schlegel, seconded by Mr. Seyler, Resolved, To approve the work order for parking ticket application integration with PCS, at an estimated cost of $6,940.00, plus annual maintenance and support. Passed by unanimous vote.

Under Water and Wastewater Committee, Mr. Schlegel had nothing to report.

Under Miscellaneous, President Snyder noted the following vacancies:

<table>
<thead>
<tr>
<th>Committee</th>
<th>Vacancies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Code Appeals Board:</td>
<td>One Member Vacancy, One Alternate Vacancy</td>
</tr>
<tr>
<td>Housing License Appeals Board:</td>
<td>One Member Vacancy, Three Alternate Vacancies</td>
</tr>
<tr>
<td>Zoning Hearing Board</td>
<td>Two Alternate Vacancies</td>
</tr>
<tr>
<td>Environmental Advisory Commission:</td>
<td>Two Member Vacancies</td>
</tr>
<tr>
<td>Telecommunications Advisory Commission:</td>
<td>Two Member Vacancies</td>
</tr>
</tbody>
</table>

August 19, 2014 Council Meeting Minutes
President Snyder called for an Executive Session at 9:22 p.m. to discuss legal and personnel matters. The Executive Session ended and the meeting reconvened at 9:52 p.m.

A motion was made by Mr. Mace, To adjourn the Council meeting. After another off agenda item was brought up, Mr. Mace withdrew his motion.

Off of the agenda, a motion was made by Mr. Schlegel, seconded by Mr. Mace, Resolved, To provide free lighting for six KYAA fall baseball games, and a charge of $90.00 per game after the first six games. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Mr. Schlegel, Resolved, To adjourn the Council meeting upon vote. Passed by unanimous vote. The meeting ended at 9:53 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 July 11, 2014 through August 13, 2014, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

Kevin Snyder
Gina M. Wiand