

October 17, 2017  
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. Derek Mace, Mr. Edwin Seyler, Ms. Peggy Devlin, Mr. Richard Diehm and Mr. Scott Piscitelli. The Mayor, Ms. Sandra Green, was absent. Mr. Keith Mooney, Borough Solicitor; Mr. Gabriel Khalife, Borough Manager/Treasurer; Ms. Gina M. Wiand, Borough Secretary/Public Relations and Marketing Director; Mr. Craig Summers, Kutztown Borough Police Chief; Kutztown University Student Ambassador to Council, Cole Mitchell; Mr. John Schmoyer, Seasonal Recreation Director; Kutztown Community Library representatives Catherine Ruhf, Joanne Yoder and Janet Yost; Kutztown University students Michael Schmidt, Amanda Meck and Bridget Moyer; Barley Snyder representative Dan McCarthy; Borough Planning Commission representative Tim Haring; Kutztown Area Transport Services representative Rodney Freeman; Borough Emergency Management representative Todd Evans; residents James Marshall, Jim Schlegel and Jim Hutchings; and Ron Devlin, reporter for the Reading Eagle, were also present.

Kutztown Community Library Board members Joanne Yoder and Cathy Ruhf presented their annual report to Council. They commended the library staff and volunteers, and thanked the Borough for its continued support. They also requested a 10 cent per capita increase to the Borough's library contribution for next year.

President Snyder noted that Downtown Trick-or-Treat Night is scheduled for Wednesday, October 25, from 6:00 p.m. to 8:00 p.m., with a rain date of Friday, October

# 11819

27, and Borough Trick-or-Treat Night is scheduled for Thursday, October 26, from 6:00 p.m. to 9:00 p.m.

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

Borough resident Jim Hutchings expressed his concerns over the Borough's stray and feral cat population. He mentioned the upcoming Fur Ball, which he called "a fundraiser to care for these cats on the streets of Kutztown and leave them there," and he stated that he does not think this will help the problem. He asked Council to look in to this issue.

Borough resident James Marshall expressed his concerns regarding the increased depth of the Quarry and the effect that the increased depth will have on the water aquifers that feed the Borough's potable water wells.

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

- ) Review and accept the Minutes of the September 19, 2017 Borough Council meeting.
- ) Review and accept the Borough Community Development Report for September, 2017.
- ) Renew the Borough's postage machine lease agreement with NeoPost.
- ) 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 September 16, 2017, through October 13, 2017, as summarized below:

General Fund	\$464,557.35
Refuse and Recycling Fund	\$71,396.61
Fire Protection Tax Fun	\$3.86
Recreation Tax Fund	\$6.17
Road Tax Fund	\$15.46

Water Fund	\$133,199.90
Electric Fund	\$376,564.24
Sewer Fund	\$93,093.50
Telecommunications Fund	\$155,240.14

Passed by unanimous vote.

Under Borough Planning Commission, a motion was made by Mr. Diehm, seconded by Ms. Devlin, Resolved, To adopt the following Resolution:

RESOLUTION NO. 18-2017

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, OPPOSING HOUSE BILL 1620, ENTITLED THE “WIRELESS INFRASTRUCTURE DEPLOYMENT BILL.”

WHEREAS, broadband service is a critical catalyst for economic development, student achievement, quality healthcare, and the efficiency of local governments. As such, the Borough of Kutztown supports the deployment of broadband services—both wired and wireless—in our community and throughout the Commonwealth; and

WHEREAS, a relatively new wireless technology, known as distributed antenna systems or DAS, includes the placement of wireless towers and antennae in the public rights-of-way; and

WHEREAS, Pennsylvania municipalities are charged by state law with the management of the public rights-of-way, including not only vehicular and pedestrian traffic, but also the numerous facilities installed by public utilities and related companies. Municipalities must manage these facilities to maintain public safety and preserve the character of our communities; and

WHEREAS, pursuant to federal law, municipalities have the right to regulate the “placement, construction, and modification” of wireless facilities through their local zoning authority so that the deployment of these facilities is achieved in an orderly

# 11821

fashion. The FCC has also issued multiple orders stating in detail how municipalities may regulate these facilities; and

WHEREAS, House Bill 1620, entitled the “Wireless Infrastructure Deployment” bill, would strip municipalities of their legal authority to regulate wireless facilities in the public rights-of-way and would therefore undermine public safety and the protection of the rights-of-way; and

WHEREAS, specifically HB 1620 would abolish municipal zoning authority over wireless antennae in the rights-of-way and nearly abolish their authority over wireless towers in the rights-of-way, thereby placing public safety at risk and removing the public from the approval process for towers and antennae; and

WHEREAS, HB 1620 would prohibit municipalities from requiring standard legal protections from companies with wireless facilities in the public rights-of-way, including full indemnification, bonding, and insurance coverage; and

WHEREAS, HB 1620 would severely limit the assessment of fees for wireless facilities in the rights-of-way such that municipalities could only charge minimal fees that are less than actual municipal costs; and

WHEREAS, HB 1620 would allow wireless contractors to submit up to 50 permit requests in one application and would curtail the time frame for initial review of wireless applications from 30 days to 10 days such that municipalities would be unable to perform these reviews in time; and

WHEREAS, HB 1620 would allow wireless companies to reverse a denial of a wireless application simply by resubmitting a revised application without having to obtain zoning approval.

WHEREAS, HB 1620 would expose outside municipal Solicitors and other municipal law firms to financial liability of up to \$10,000 per occurrence simply for drafting a wireless ordinance that is deemed to be in violation of HB 1620.

WHEREAS, if the Pennsylvania General Assembly is permitted to abolish municipal right-of-way authority over wireless facilities today, then it could abolish all municipal authority over the public rights-of-way tomorrow.

NOW THEREFORE BE IT RESOLVED,

1. That the Council of the Borough of Kutztown does hereby express its opposition to HB 1620 because it is not in the best interests of Pennsylvania.
2. That this Resolution shall be sent to our State Representative(s), State Senator, Governor, and all Members of the House Consumer Affairs Committee, which is the Committee to which HB 1620 has been assigned.

Passed by unanimous vote.

A public hearing was held to discuss the proposed Ordinance amending the Kutztown Code by repealing and replacing certain terms found in §225-5.D, related to commercial communications facilities, by repealing §225-10.1 of the Code and by replacing and reenacting §225-33.2 of the Code.

Mr. Mooney explained that the Ordinance is the Borough's effort to accommodate new mini wireless cell towers and the regulations that the FCC has passed relating to them.

President Snyder asked for questions or comments from the audience.

Jim Hutchings asked about harmful radiation from the devices, and Mr. Mooney responded that the FCC does not find radiation to be a reasonable basis for prohibiting the devices.

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

# 11823

## ORDINANCE NO. 3- 2017

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF KUTZTOWN BY REPEALING CERTAIN TERMS FOUND IN § 225-5.D OF THE BOROUGH OF KUTZTOWN CODE OF ORDINANCES ( THE “CODE”) RELATED TO COMMERCIAL COMMUNICATIONS FACILITIES, BY REPEALING § 225-10.1 OF THE CODE AND BY REPEALING AND REENACTING § 225-33.2 OF THE CODE.

Passed by unanimous vote.

A public hearing was held to discuss the proposed Ordinance amending Article V of Chapter 225 of the Kutztown Code so as to reenact §225-33.3, entitled “Alternative Energy Systems,” which repealed itself by operation of law on April 19, 2016, and to remove the Sunset Provision that was contained therein.

Mr. Mooney explained that the Ordinance allows residents to use alternative energy systems such as wind mills and solar panels, and that the only change that was made was to remove the sunset provision, so Council will only need to amend the Ordinance in the future if other changes are made.

President Snyder asked for questions or comments from the audience, and there were none.

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

## ORDINANCE NO. 4-2017

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AMENDING ARTICLE V OF CHAPTER 225 OF THE KUTZTOWN CODE SO AS TO REENACT §225-33.3, ENTITLED “ALTERNATIVE ENERGY SYSTEMS” WHICH REPEALED ITSELF BY OPERATION OF LAW ON APRIL 19, 2016, AND TO REMOVE THE SUNSET PROVISION THAT WAS CONTAINED THEREIN.

Passed by unanimous vote.

Under Environmental Advisory Commission, there was nothing to report.

Under Community Development and Public Safety Committee, the Monthly Police Report for September, 2017 was submitted.

The following fines were collected:

District Justice Greth	August, 2017	\$3,981.98
Clerk of Common Pleas	August, 2017	\$660.07
Secretary's Office	September, 2017	\$4,575.00

Under Public Works Committee, a motion was made by Mr. Piscitelli, seconded by Ms. Devlin, Resolved, To adopt the following Resolution:

RESOLUTION NO. 14-2017

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AMENDING CHAPTER A231 OF THE CODE OF THE BOROUGH OF KUTZTOWN, SO AS TO AMEND SOLID WASTE DISPOSAL FEES.

WHEREAS, the Council of the Borough of Kutztown from time to time adopts Resolutions establishing the rates to be charged regarding solid waste disposal service furnished to consumers, by authority of the duly enacted ordinances of the Borough of Kutztown, Berks County, Pennsylvania; and

WHEREAS, Section 185-7 of Chapter 185 of the Code of the Borough of Kutztown sets forth that the fees for the availability and use of the Borough's collection and disposal service for refuse shall be provided for from time to time by Resolution of Council; and

WHEREAS, Section A231-1.13 of Chapter A231 of the Code of the Borough of Kutztown sets forth the solid waste collection and disposal fees; and

WHEREAS, the Council of the Borough of Kutztown desires, by this Resolution, to amend said solid waste collection and disposal fees.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, and it is hereby adopted by the authority of the same, that Section 231-1.13 of Chapter A231 of the Code of the Borough of Kutztown be, and it is hereby, amended in its entirety so as to read:

# 11825

A. Effective November 2017 (payment due and payable on and after December 25, 2017), the fees and charges for the collection and disposal of refuse or large items shall be as follows:

- (1) Except as hereinafter provided, per month per dwelling unit: \$34.50.
- (2) Notwithstanding the provisions above, if any dwelling unit is occupied by any person or his or her spouse (if a member of the household) shall be 62 years of age or older, per month per such dwelling unit: \$19.00.
- (3) Additional charge for collection of containers in excess of three per collection period, per additional container per collection: \$2.00.
- (4) Additional charge for collection of refuse, large items or dumpsters not accessible during a scheduled collection where a return to the premises is required for the purpose of collecting same, per collection: as established in § A231-2 of Chapter A231.
- (5) Dumpsters.
  - (a) From dumpsters rented from the Borough of Kutztown having a capacity of:
    - [1] One-and-one-half cubic yards, per month: \$181.50.
    - [2] Two cubic yards, per month: \$217.04.
    - [3] Four cubic yards, per month: \$326.36.
    - [4] Six cubic yards, per month: \$469.22.
  - (b) To purchase a dumpster from the Borough of Kutztown: Borough cost plus \$55.00.
  - (c) From dumpsters not owned by the Borough of Kutztown or for pick-up in excess of the standard collection for dumpsters owned by the Borough Kutztown, per cubic yard per collection, based upon the entire capacity of the dumpster: \$13.75.

Additional charge for the collection and disposal of large items, as follows:

- (1) Large stuffed chair or recliner, sofa or loveseat and/or large table: \$30.00.
- B. NOTE: Sectional sofas will be charged per piece.
- (2) Large appliances such as refrigerator [with door off and chlorofluorocarbons (CFC's) removed by a person certified to do work], air conditioner (CFC's removed by a person certified to do work), stove, washer/dryer and/or electronic equipment, (excluding televisions): \$30.00.
  - (3) Televisions: \$50.00.
  - (4) Mattress, box spring, small table, kitchen chair (small): \$7.00.
  - (5) Rugs, any size (except 9x12 and larger): \$3.00.
  - (6) Rugs, 9x12 and larger: \$6.50.
  - (7) Christmas trees: \$10.00.
  - (8) Any other large items not specified above, excluding tires: cost to be determined by the Borough



- C. All fees charged shall be paid monthly.
- D. Any item used herein that has been defined in Chapter 185 shall have the meaning applicable to such term in Chapter 185.

BE IT FURTHER RESOLVED, that any and all Resolutions and parts of Resolutions inconsistent with this Resolution are hereby retroactively superseded and that this Resolution shall remain in effect until superseded by a duly adopted Resolution of the Council of the Borough of Kutztown.

DULY ADOPTED AS A RESOLUTION this 17<sup>th</sup> day of October, 2017, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled.

Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Devlin, Resolved, To approve the parade permit application for Taste of Kutztown on June 9, 2018. Passed by unanimous vote.

A motion was made by Mr. Piscitelli, seconded by Mr. Mace, Resolved, To approve the request from KUBOK to place a memorial plaque on a stone at the Kyle Quinn Memorial Tree. Passed by unanimous vote.

Off of the agenda, a motion was made by Mr. Seyler, seconded by Mr. Piscitelli, Resolved, To award the online bids received for the 2002 Volvo Rear Load Garbage Truck, to Joseph Sennetti, in the amount of \$26,200.00. Passed by unanimous vote.

Off of the agenda, a motion was made by Mr. Seyler, seconded by Mr. Piscitelli, Resolved, To award the online bids received for the 1976 Clipper Walk-Behind Concrete Saw, to James Zheltonoga, in the amount of \$167.00. Passed by unanimous vote.

A motion was made by Ms. Devlin, seconded by Mr. Piscitelli, Resolved, To award the online bids received for the Newstripe Scotsman Hand Pump Line Painter, to Todd Mayera, in the amount of \$110.00. Passed by unanimous vote.

Under Personnel Committee, a motion was made by Ms. Devlin, seconded by Mr.

# 11827

Piscitelli, Resolved, To promote Chad Gechter to the position of First Class Lineman.

Passed by unanimous vote.

A motion was made by Ms. Devlin, seconded by Mr. Diehm, Resolved, To hire Tyler Diehl, as a Refuse Laborer I (without CDL), contingent upon passing all required clearances. Passed by unanimous vote.

A motion was made by Ms. Devlin, seconded by Mr. Diehm, Resolved, To accept the resignation of Rachel Gonzalez, with regret, from the Environmental Advisory Commission, effective immediately. Passed by unanimous vote.

A motion was made by Ms. Devlin, seconded by Mr. Diehm, Resolved, To appoint Hollis Carter, as a student member of the Environmental Advisory Commission, whose term shall expire on January 1, 2018. Passed by unanimous vote.

A motion was made by Ms. Devlin, seconded by Mr. Diehm, Resolved, To accept the resignation of Donald Sheetz, Jr., with regret, from the Civil Service Commission, effective December 31, 2017. Passed by unanimous vote.

An Executive Session to discuss personnel and legal matters was deferred until the end of the meeting.

Under Finance and Electric Committee, Mr. Mace noted that electric rates have not been raised since 2012 and they will not be raised for 2018.

Mr. Khalife announced that he would be handing out budget binders for Council's review.

Under Telecommunications and Information Technologies Committee, a motion was made by Mr. Diehm, seconded by Mr. Seyler, Resolved, To increase the Expanded

Basic TV package and TiVo Bundles that include Expanded Basic TV, by \$3.50 each, starting with the December 2017 billing for January 2018. Passed by unanimous vote.

Under Water and Wastewater Committee, a motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request from the Kutztown Municipal Authority for the allocation of an additional 7,500 gallons of water service for the proposed hotel located at 15080 Kutztown Road. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Devlin, Resolved, To authorize HRG to prepare and submit the application to amend the Water Quality Management Part II permit application, in regard to phosphorous removal, in the amount of \$6,000.00. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Devlin, Resolved, To authorize HRG to complete the engineering work needed in regard to the water meter modifications, for Saucony Meadows Apartments, Weis Market and Kutztown Manor, in the estimated amount of \$4,500.00. Passed by unanimous vote.

Off of the agenda, a motion was made by Mr. Seyler, seconded by Mr. Piscitelli, Resolved, To award the online bids received for two (2) Trimble Automated Meter Readers, to Gilbert Reyes, in the amount of \$185.00 plus shipping. Passed by unanimous vote.

Mr. Mooney introduced Council to Dan McCarthy, a new Barley Snyder associate.

Under Miscellaneous, President Snyder noted the following vacancies:

Code Appeals Board:	One Member Vacancy
	One Alternate Vacancy
Planning Commission:	Two Member Vacancies
Zoning Hearing Board:	Two Alternate Vacancies

# 11829

Housing License Appeals Board:	One Member Vacancy Three Alternate Vacancies
Telecommunications Advisory Commission:	One Member Vacancy

President Snyder called for an Executive Session at 8:24 p.m. to discuss personnel and legal matters. The Executive Session ended and the meeting reconvened at 8:33 p.m.

Off of the agenda, a motion was made by Ms. Devlin, seconded by Mr. Seyler, Resolved, To authorize the Borough's insurance representative to attend the mediation hearing with Advantage Point. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Diehm, Resolved, To adjourn the Council meeting upon vote. Passed by unanimous vote. The meeting ended at 8:34 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 September 16, 2017, through October 13, 2017, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

---

Kevin J. Snyder

---

Gina M. Wiand