

January 18, 2022
Kutztown, PA

A regular meeting of the Kutztown Borough Council was called to order at 7:32 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. Arabel Elliott, Ms. Lisa Ladd-Kidder, Mr. George Kusterer, and the Mayor, Mr. James Schlegel. Mr. Keith Mooney, Borough Solicitor; Mr. Gabriel Khalife, Borough Manager/Treasurer; Ms. Gina M. Wiand, Borough Secretary/Public Relations and Marketing Director; Borough Planning Commission representatives Fred Engelhardt and Jeff Dietrich; Environmental Advisory Commission representative Keith Leinbach; Allentown & Auburn Railroad representative Frank Lorah; and residents Eric Boyer, Martha Kuhns and Robert Hauck were also present.

President Snyder noted the following vacancies:

Code Appeals Board:	Four Member Vacancies One Alternate Vacancy
Planning Commission:	One Member Vacancy Recording Secretary Vacancy
Zoning Hearing Board:	One Member Vacancy Two Alternate Vacancies
Housing License Appeals Board:	One Member Vacancy Three Alternate Vacancies
Environmental Advisory Commission	Three Member Vacancies One Student Member Vacancy
Telecommunications Advisory Commission	Three Member Vacancies

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

Fred Englehardt stated that he was speaking as a resident and not as a member of the Planning Commission, and he thanked everyone involved with facilitation the “Dust

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Ordinance.” He said that he thinks it would be the neighborly thing to do to offer a one-year period to allow for compliance of the Ordinance.

Jeff Dietrich, Martha Kuhns and Keith Leinbach also spoke in favor of the “Dust Ordinance.”

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

- Review and accept the Minutes of the December 21, 2021, Borough Council meeting.
- Review and accept the Minutes of the January 3, 2022, Borough Council meeting.
- Review and accept the Borough Community Development Report for December 2021.
- Allow the Kutztown Day Committee to meet at the Train Station, as needed, contingent upon the Borough being notified and that there are no meeting or event conflicts.
- 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 December 18, 2021, through January 14, 2022, as summarized below:

General Fund	\$73,829.34
Refuse and Recycling Fund	\$28,711.20
Water Fund	\$42,808.34
Electric Fund	\$277,883.19
Sewer Fund	\$65,046.90
Telecommunications Fund	\$52,301.96

Passed by unanimous vote.

Under Borough Planning Commission, a motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To introduce and authorize advertisement of the proposed Outdoor Dining Facility Ordinance. Passed by unanimous vote.

There was conversation regarding the walkway size, and Mr. Engelhardt

clarified that a “clear, continuous path of three feet” is stipulated and that there is no trial period.

President Snyder noted that the Planning Commission submitted their 2021 Annual Report to Council.

Under Environmental Advisory Commission, there was nothing to report.

Under Community Development and Public Safety Committee, the Monthly Police Report for December 2021 was submitted.

Mr. Kusterer noted that the following fines were collected:

District Justice Greth	November 2021	\$5,173.61
Clerk of Common Pleas	November 2021	\$50.00
Secretary’s Office	December 2021	\$2,750.00

A motion was made by Mr. Kusterer, seconded by Ms. Ladd-Kidder, Resolved,
To enact and ordain the following Ordinance:

ORDINANCE NO. 1-2022

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, CREATING AND ENACTING CHAPTER 168 SECTIONS 16 THROUGH 28 OF THE CODE OF THE BOROUGH OF KUTZTOWN TO BE KNOWN AS THE “BOROUGH OF KUTZTOWN AIR POLLUTION CONTROL ORDINANCE“, SAID ORDINANCE SHALL DEFINE AIR CONTAMINANTS, AMONGST OTHER THINGS AND PROVIDE REGULATIONS REGARDING: AIR CONTAMINANTS, ABATEMENT OF AIR CONTAMINANTS, EXCEPTIONS FROM THE ORDINANCE, ENFORCEMENT PROVISIONS, RESPONSIBILITY OF PROPERTY OWNERS AND BUSINESS OPERATORS EMITTING AIR CONTAMINANTS AND PENALTIES FOR VIOLATION OF THE ORDINANCE.

Passed by unanimous vote.

Ms. Ladd-Kidder noted, for the record, that the Environmental Advisory Commission unanimously recommends enactment of this Ordinance.

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Council discussed ideas for enforcing the Ordinance, such as providing a grace period, giving 30 days' notice that the Ordinance was enacted and can now be enforced; drafting a formal policy for delaying enforcement; and waiting for a violation to occur.

Mr. Mooney reminded Council that enforcement is always the prerogative of the Borough, and that the appropriate employees need to be made aware of how Council wants it enforced – whatever the method.

A motion was made by Mr. Kusterer, seconded by Ms. Ladd-Kidder, Resolved, To introduce and authorize advertisement of the proposed Ordinance Amending Article V of Chapter 225 of the Kutztown Code by amending §225-29 entitled “Parking and Truck Loading/Unloading Requirements”, to Eliminate Off-Street Parking Requirements in the CC-Business Commercial Central Zoning District and the C-1 Business Commercial Zoning District for certain uses in the Commercial Core. Passed by unanimous vote.

Under Public Works Committee, the item to review and discuss decreasing the original Folk Festival invoice for their October events, in the amount of \$6,090.45, to \$3,484.20 was deferred until the end of the Public Works section of the agenda.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve the request, from Shannon Morris, to use the Scooter Building on Sunday, June 5, 2022. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve the proposed updated pool rates for 2022. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To execute the Peach Street Bridge Easement Agreement.

Mr. Mooney stated that there would need to be a revision to the motion because there are four documents to be approved.

Mr. Seyler amended his motion, and Ms. Ladd-Kidder amended her seconding of the motion, To execute the Peach Street Bridge Easement Agreement and to also execute the Agreement of Sale, the Temporary Easement for Construction, and the Deed. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve the Environmental Advisory Commission's plan to create a walking tour of the trees at the Main Street Park. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve splitting the cost of trees, for the Environmental Advisory Commission's 2022 tree planting project, if they do not receive the Giant Food Grant. Passed by unanimous vote.

Mr. Mace asked what the cost would be, and Ms. Ladd-Kidder said that it would be \$1,500.00 each.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve the addition of a flagpole to the Veterans Way entrance sign at the Park. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To rehire Lisa Reilly as the pool manager for the 2022 season. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve flying POW-MIA flags on all the Borough flag poles. Passed by unanimous vote.

Mayor Schlegel noted that the first set of flags will be free.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To decrease the original Folk Festival invoice for their October events, in the amount of \$6,090.45, to \$3,484.20.

Mr. Seyler mentioned previous discussions about further reducing the bill to \$3,034.20, which cuts the Borough's truck time in half.

Mr. Seyler amended his motion, and Ms. Ladd-Kidder amended her seconding of the motion, To decrease the original Folk Festival invoice for their October events, in the amount of \$6,090.45, to \$3,034.20. Passed by unanimous vote.

Under Personnel Committee, a motion was made by Ms. Elliott, seconded by Mr. Kusterer, Resolved, To enact and ordain the following Ordinance:

ORDINANCE NO. 2-2022

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA REPEALING AND REENACTING IN FULL CHAPTER 33 (PENSIONS), ARTICLE III OF THE CODE OF THE BOROUGH OF KUTZTOWN ENTITLED "NONUNIFORMED EMPLOYEES", SO AS TO ELECT TO CHANGE THE BENEFITS THE BOROUGH OF KUTZTOWN HAS IN THE PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM UNDER ARTICLE IV OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW, SO AS TO AGREE TO BE BOUND BY ALL PROVISIONS OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW AS AMENDED AND AS APPLICABLE TO MEMBER MUNICIPALITIES CHANGING BENEFITS UNDER THE PROVISIONS OF ARTICLE IV THEREOF; AND SO AS TO STATE WHICH OF CERTAIN OPTIONS PERMITTED UNDER THE SAID LAW ARE ACCEPTED BY THE BOROUGH OF KUTZTOWN; AND REPEALING ORDINANCE NO. 1-2012.

Passed by unanimous vote.

Under Finance and Electric Committee, a motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, To introduce and authorize advertisement of the proposed Resolution amending labor and equipment rates. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, To execute the Street Lighting Agreement with Met-Ed. Passed by unanimous vote.

Under Telecommunications and Information Technologies Committee, a motion was made by Ms. Ladd-Kidder, seconded by Ms. Elliott, Resolved, To ratify the sale of a router, to Donald and Sue Boyer, in the amount of \$90.00. Passed by unanimous vote, with Mr. Kusterer abstaining, because the customer is his daughter.

Under Water and Wastewater Committee, a motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To enter into an easement agreement with The Edge at Kutztown, located at 2200 Lifestyle Lane, contingent upon the drafted agreement being accepted by all parties. Passed by unanimous vote.

Mr. Seyler noted that “The Edge understands that if there is a problem, the Borough will fix it at all costs and not be responsible for replacing anything.”

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve Stoltzfus Service Corp. to begin maintenance work on water Tank 1, located at the Water Treatment Plant, in the amount of \$46,000.00. Passed by unanimous vote.

Mr. Seyler noted that the work is due to regulations.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve 15 EDUs of water to be granted to the South Elm Street apartment project. Passed by unanimous vote.

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A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve 15 EDUs of sewer to be granted to the South Elm Street apartment project. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To sign the planning module in regard to the South Elm Street apartment project. Passed by unanimous vote.

Mr. Mooney clarified that the planning module goes to the DEP, for them to approve, for sewer capacity.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To extend the February 24, 2022, deadline for three additional months, to May 24, 2022, regarding one (1) EDU reservation and required payment, for 63544316944398 Commons Road – KMA one (1) EDU (Michael Guzzetta). All those in favor, except for Mr. Mace, who voted Nay. There being a majority in favor, the motion passed.

Mr. Seyler clarified that this is on the north side of the road.

Mr. Seyler noted that the Water Department will replace a leaky fire hydrant on the corner of Greenwich and West Walnut Streets. Prior to the hydrant replacement an insert valve on the 6" water main, located in Greenwich Street, will be installed.

Under Miscellaneous, a motion was made by Mr. Seyler, seconded by Mr. Kusterer, Resolved, To adjourn the Council meeting upon vote. Passed by unanimous vote. The meeting ended at 8:27 p.m.

Prepared and attested by: Gina M. Wiand
Borough Secretary

Kevin Snyder and Gina M. Wiand hereby ordered payment of the expenditures listed in the Accounts Payable G/L Distribution Report, including payment dates from December 18, 2021, through January 14, 2022, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

Kevin J. Snyder

Gina M. Wiand