

April 20, 2021  
Kutztown, PA

A regular meeting of the Kutztown Borough Council was called to order at 8:01 p.m., via Zoom, by the President, Mr. Kevin Snyder, with other members of Borough Council present: Mr. Derek Mace, Mr. Edwin Seyler, Ms. Arabel Elliott, and the Mayor, Mr. James Schlegel. Councilman Zebulon Hull and Councilwoman Amanda Raudenbush were absent. Mr. Keith Mooney, Borough Solicitor; Mr. Gabriel Khalife, Borough Manager/Treasurer; Ms. Gina M. Wiand, Borough Secretary/Public Relations and Marketing Director; Mr. Brian Bailey, Public Works Superintendent; Mr. John Schmoyer, Seasonal Recreation Director; Ms. Judith Danko, Community Development Director; Kutztown Community Partnership/Kutztown University Community Liaison Sandy Green; Planning Commission representatives Lisa Ladd-Kidder and Joel Seidel; Barbara Smith, Jacob Sewall, Erin Kraal, Margaret Noel, Lura Faust, Tricia Green and Lisa Mitchell were also present.

President Snyder noted that an Executive Session took place, prior to the Council meeting, to discuss a potential litigation matter.

Mayor Schlegel issued the following proclamation:

## PROCLAMATION

### BELLS ACROSS PENNSYLVANIA DAY MAY 2, 2021

WHEREAS, a statewide disaster emergency was proclaimed on March 6, 2020, in response to the COVID-19 pandemic necessitating all Pennsylvania residents to shelter in place, businesses to close or curtail their activities; and social events to be cancelled; and

WHEREAS, despite all of the efforts of state, county, and municipal governments to mitigate the effects of this pandemic, to date, over one million Pennsylvanians have been afflicted with COVID-19, and 24,972 Pennsylvanians have died from it; and

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WHEREAS, in every municipality, there have been emergency medical personnel, firefighters, police officers, and employees of grocery stores and pharmacies, utility workers and other life-sustaining businesses who have braved the viral elements, at the expense of themselves and their families, to maintain essential services to the general public sheltering in place and are deserving of recognition as “hometown heroes;” and

WHEREAS, elected officials across the Commonwealth have joined together to promote a second annual statewide expression of gratitude to these hometown heroes, solidarity with other Pennsylvanians on the frontlines of the COVID-19 battlefield and determination that their municipal businesses and civic-life will thrive once again; and

WHEREAS, since days of the American Revolution, the bell has served as an instrument for expressing communal gratitude, camaraderie and resolve, and is a means well-suited for Pennsylvanians sheltering in place to demonstrate such values.

NOW, THEREFORE, the Mayor, in concert with the Council of the Borough of Kutztown, hereby proclaims:

Sunday, May 2, 2021 as Bells Across Pennsylvania Day and calls upon all residents, businesses and churches, at 7:00 p.m., to ring bells or make other celebratory noise for three minutes to honor their hometown heroes, rally with other Pennsylvanians on the frontlines of the COVID-19 battlefield, and show resolve to restore their local businesses and civic life to their former prominence.

President Snyder noted the following vacancies:

Code Appeals Board:	Four Member Vacancies
	One Alternate Vacancy
Zoning Hearing Board:	Two Alternate Vacancies
Kutztown Municipal Authority:	One Member Vacancy
Housing License Appeals Board:	Three Alternate Vacancies
Environmental Advisory Commission	Three Member Vacancies
Telecommunications Advisory Commission:	One Member Vacancy

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

Lisa Ladd-Kidder read aloud a statement regarding her opposition to the Duke Realty project which will be voted on, by Maxatawny Township, on May 20, 2021.

She asked Council to call an emergency meeting for the purpose of preparing a letter as a contiguous municipality opposed to the proposed trucking hub on Long Lane.

She noted that she is willing to seek out the other six contiguous municipalities to gauge their interest and that she would hand deliver all letters to the Maxatawny Township office herself.

Mr. Mace and Ms. Elliott expressed their willingness to pursue the idea due to their opposition of the project. Mr. Mace also expressed his concern regarding the Borough's legal agreement with Saucony Creek Regional Authority (SCRA).

Mr. Mooney agreed that bringing it to the attention of the Township, for their meeting, would be the appropriate way to handle it.

President Snyder stated that Ms. Ladd-Kidder's statement addresses the matter very clearly, and he would like for Council to adopt it as a letter, put it on letterhead and send it to Maxatawny Township.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To adopt Ms. Ladd-Kidder's statement, regarding opposition to Duke Realty project, to put it on letterhead and to send it to Maxatawny Township due to concerns about the Borough's water and sewer. Passed by unanimous vote.

Lura Faust asked for a follow-up regarding her fence permit fees, and Mr. Khalife said that it would be discussed under Community Development and Public Safety Committee.

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

- Review and accept the Minutes of the March 16, 2021 Borough Council meeting.
- Review and accept the Borough Community Development Report for March, 2021.

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- 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 March 13, 2021, through April 16, 2021, as summarized below:

General Fund	\$170,800.30
Refuse and Recycling Fund	\$54,523.65
Water Fund	\$51,352.40
Electric Fund	\$308,267.31
Sewer Fund	\$84,451.74
Telecommunications Fund	\$85,678.30

Passed by unanimous vote.

Under Borough Planning Commission, there was nothing to report.

Under Environmental Advisory Commission, Mayor Schlegel noted that there was another good community cleanup effort this month.

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

Mr. Mace noted that the following fines were collected:

District Justice Greth	February, 2021	\$1,970.37
Clerk of Common Pleas	February, 2021	\$50.00
Secretary's Office	March, 2021	\$4,150.00
Parking Kiosk	March, 2021	\$358.58

A motion was made by Mr. Mace, seconded by Ms. Elliott, Resolved, To enter in to an Intergovernmental Agreement, with Berks County, for the establishment of the Berks County Uniform Construction Code Board of Appeals.

Ms. Wiand noted that there was an updated motion for this agenda item.

A motion was made by Mr. Mace, seconded by Ms. Elliott, Resolved, To rescind their motion and seconding of the motion to enter in to an Intergovernmental Agreement, with Berks County, for the establishment of the Berks County Uniform Construction Code Board of Appeals. Passed by unanimous vote.

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

#### RESOLUTION 5-2021

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, AUTHORIZING THE BOROUGH COUNCIL TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT, WITH THE COUNTY OF BERKS, TO ESTABLISH THE BERKS COUNTY UNIFORM CONSTRUCTION CODE BOARD OF APPEALS IN COOPERATION WITH PARTICIPATING MUNICIPALITIES WITHIN THE COUNTY.

#### BACKGROUND

A. A majority of the townships and boroughs in Berks County have enacted ordinances adopting the Uniform Construction Code (“UCC”), Act 45 of 1999, 35 P.S. §§ 7210.101, et seq. (the “Act”).

B. Section 301 of the Act directed the Pennsylvania Department of Labor and Industry to promulgate regulations with respect to the administration and enforcement of the Act, which regulations were codified at Title 34 Pa.Code, Chapters 401, 403 and 405 (“Regulations”).

C. Section 403.121(d) of the Regulations, 34 Pa.Code § 403.121(d), as authorized by Section 501(c) of the Act, 35 P.S. § 7210.501(c), provides that two or more municipalities may establish a joint board of appeals through an intergovernmental agreement adopted under the authority of the Pennsylvania Intergovernmental Cooperation Act, 53 Pa.C.S. §§ 2301, et seq.

D. Under Section 2303 of the Pennsylvania Intergovernmental Cooperation Act, 53 Pa.C.S. § 2303, two or more local governments may enter into an intergovernmental cooperation agreement, as deemed appropriate, in the exercise or performance of their respective governmental functions, power or responsibilities.

E. Certain municipalities desire to enter into an intergovernmental agreement (“Agreement”) to establish the Berks County UCC Board of Appeals in cooperation with the County of Berks, to hear and rule on appeals, requests for variances and requests for extension of time as may be filed within each such municipality under the respective municipality’s UCC ordinance.

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

Section 1. The Title and Background of this Resolution set forth above are incorporated herein by reference.

Section 2. The Council of the Borough of Kutztown hereby approve entering into the Agreement, a copy of which is attached hereto as Exhibit A and incorporated herein by reference (and which shall be filed with the minutes of the meeting at which this Resolution was adopted), with the intent and effect that the Borough of Kutztown shall be bound by the Agreement.

Section 3. The President of Borough Council is hereby authorized and directed on behalf of the Borough: (i) to execute and deliver the Agreement; and (ii) to execute and deliver such additional

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instruments, and to take such further actions, as may be necessary or appropriate to carry forth the Agreement and the transactions to be effected under the Agreement.

Section 4. All actions of any officer, agent or other representative of the Borough heretofore taken in the pursuit of the establishment of the UCC Board of Appeals and/or the Borough's participation therein are hereby ratified and approved in all respects.

Section 5. The Council members are hereby authorized to take such other action as may be necessary or appropriate to carry out the purposes of this Resolution and of the Agreement.

Section 6. As required by the Pennsylvania Intergovernmental Cooperation Act, the following matters are specifically found and determined:

- (a) The conditions of the Agreement are set forth in the Agreement.
- (b) The participating municipalities shall utilize the UCC Board of Appeals for all appeals filed from application of the participating municipalities for the term as set forth in the Agreement.
- (c) The purpose and objectives of the Agreement are as set forth in the Background of this Resolution and in the Agreement.
- (d) The manner and extent of financing the Agreement are that provisions governing the manner and extent of the financing of the UCC Board of Appeals shall be as set forth in the Agreement;
- (e) The UCC Board of Appeals shall be managed by its members pursuant to the terms of the Agreement.
- (f) All property, real or personal, of the UCC Board of Appeals shall be acquired, managed, licensed or disposed of by the UCC Board of Appeals in accordance with the terms of the Agreement.
- (g) The UCC Board of Appeals will not be entering into any contracts.

Section 7. Nothing contained in this Resolution shall be construed to affect any suit or proceeding in any court, or any rights acquired or liability incurred, or any cause of action existing prior to the enactment of this Resolution.

Section 8. This Resolution shall become effective as provided by applicable law.

DULY ADOPTED AS A RESOLUTION this 20<sup>th</sup> day of April, 2021, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled.

Passed by unanimous vote.

Mr. Mooney told Council that it was his understanding that there needs to be an Ordinance enacted for this, but Mr. Khalife said that he was told that a Resolution would

be fine.

A motion was made by Mr. Mace, seconded by Ms. Elliott, Resolved, To approve the request, from the Kutztown Community Partnership, to hold a Kutztown High School Senior Send-Off, on June 3, 2021, from 6:00 p.m. until 10:00 p.m., with a rain date of June 4, 2021, and to close the 200 block of Main Street as well as Constitution Boulevard. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Ms. Elliott, Resolved, To introduce and authorize advertisement of the proposed Ordinance amending Section A231, Chapter 212 and Chapter 206, of the Code of the Borough of Kutztown, regarding police fees. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Ms. Elliott, Resolved, To introduce and authorize advertisement of the proposed Resolution amending fees in connection with the provision of police reports, the issuance of transient retail business licenses, the impoundment of motor vehicles and the issuance of alarm device permits. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Ms. Elliott, Resolved, To introduce and authorize advertisement of the proposed Ordinance amending Chapter 206 of the Code of the Borough of Kutztown by repealing and reenacting Section 206 (1) (c) to add additional requirements to the application submission for a Transient Retail License. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Ms. Elliott, Resolved, To introduce and authorize advertisement of the proposed Resolution establishing fees in connection with the Municipal Court Summary Case Diversionary Program.

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Passed by unanimous vote.

Off of the agenda, a motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To waive \$600.00 of the \$718.00 fees that were charged to Lura Faust.

Ms. Faust thanked Council for the resolution they reached for her.

Under Public Works Committee, a motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the proposed Kutztown Pool COVID-19 Requirements and Operating Procedures. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To open the pool, on Memorial Day Weekend, contingent upon all repairs being made. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To open the park bathrooms, on May 1, utilizing the 2021 COVID-19 Disinfecting requirements and operating procedures for Kutztown Park. Passed by unanimous vote.

Mr. Bailey asked if the bathrooms could be opened on April 24, as a test run, and it was the consensus of Council to allow it.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the 2021 Park concert series. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the YMCA summer program, if the park bathrooms are open, provided they follow all COVID guidelines in place at that time. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request, from KU's Actors Creating Theater, to use the Band Shell on April 26, 2021, for a performance, provided they follow all COVID guidelines in place at that time.



Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request, from the Kutztown Brandywine Cougars Youth Football and Cheering Association, to use the multipurpose field for mini camps in late June and late July, and for their season, from August 1, 2021, through November 30, 2021, provided they follow all COVID guidelines in place at those times. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request, from Rebekah Remp, to use the Band Shell on April 30, 2021, from 5:30 p.m. through 9:00 p.m., for a worship night, provided they follow all COVID guidelines in place at that time. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request, from Gary Mullen, to use the Scooter Building on June 20, 2021, contingent upon the park bathrooms being open, for a graduation party, provided they follow all COVID guidelines in place at that time. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request, from Linda Andre, to rent the Scooter Building on May 2, 2021, for a birthday party, provided they follow all COVID guidelines in place at that time. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request, from Branches of Dance, to rent the Band Shell on June 5, 2021, for a recital, provided they follow all COVID guidelines in place at that time. Passed by unanimous vote.

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A motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, To pay \$2,700.00 toward the estimate to replace part of the curbing that broke off during snow removal at 426 W. Walnut Street. After further discussion that included Ms. Elliott saying that the Community Development Office recommends not paying for any of the repairs due to Google Earth photos that show damage from 2014, Mr. Mace withdrew his motion and Mr. Seyler withdrew his seconding of the motion.

A motion made by Mr. Seyler, to pay 50% of the estimate to replace part of the curbing that broke off during snow removal at 426 W. Walnut Street, died for lack of a second.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To name Todd Underwood as volunteer of the year for 2020. Passed by unanimous vote.

President Snyder suggested planting a tree in Mr. Underwood's honor.

Under Personnel Committee, a motion was made by Ms. Elliott, seconded by Mr. Mace, Resolved, To conditionally hire the following 2021 seasonal pool employees, contingent upon meeting all pre-employment requirements: Kian Kanasky, head lifeguard, \$11.57 per hour; Molly Brown, assistant head lifeguard, \$10.87 per hour; Makenzie Barrell, lifeguard, \$10.18 per hour; McKaylah Booth, lifeguard, \$8.97 per hour; Gabriel Clauss, lifeguard, \$8.97 per hour; Otis Engel, lifeguard, \$8.97 per hour; Luke Geist, lifeguard, \$8.97 per hour; Natalie Harrell, lifeguard, \$8.97 per hour; Charlene Rissmiller, lifeguard, \$9.79 per hour; Cassandra Sarnicky, lifeguard, \$9.79 per hour; Isaiah Schwartz, lifeguard, \$10.18 per hour; Caroline Brown, office clerk, \$8.65 per hour; Rhian Conibeer, office clerk, \$8.65 per hour; Paige Geist, office clerk, \$8.65 per hour; Braedyn Schuler, office clerk, \$8.65 per hour; Hayden Stump, office clerk, \$8.65 per

hour; and Maxwell Whitson, office clerk, \$8.65 per hour. Passed by unanimous vote.

Off of the agenda, a motion was made by Ms. Elliott, seconded by Mr. Mace, Resolved, To accept the resignation Mackenzie Keller, from her position at the Kutztown Community Library, effective April 30, 2021. Passed by unanimous vote.

Mayor Schlegel said that Ms. Keller did a very good job facilitating the Pen Pal Program at the library.

A motion was made by Ms. Elliott, seconded by Mr. Mace, Resolved, To hire Davis Stoudt, Paul Dalickas and Andrew Dalickas as Public Works Seasonal Laborers for 2021. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Mace, Resolved, To reappoint Nykolai Blicher, as a member of the Planning Commission, whose term shall expire on May 1, 2025. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Seyler, Resolved, To reappoint Melissa Miller, as a member of the Code Appeals Board, whose term shall expire on May 1, 2026. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Mace, Resolved, To reappoint John Fry, as a member of the Code Appeals Board, whose term shall expire on May 1, 2026. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Mace, Resolved, To appoint Kathleen Kelly, as a member of the Environmental Advisory Commission, whose term shall expire on May 1, 2024. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Mace, Resolved, To appoint Brian Hilliard, as a member of the Kutztown Municipal Authority, whose term shall

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expire on December 1, 2022. Ms. Elliott noted that this was a vacated, unexpired term.

Passed by unanimous vote.

Ms. Elliott asked Ms. Danko to reach out to the Code Appeals Board and the Zoning Hearing Board regarding educational training opportunities.

Under Finance and Electric Committee, a motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, To adopt the following Resolution:

## RESOLUTION 6-2021

A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF KUTZTOWN , BERKS COUNTY, COMMONWEALTH OF PENNSYLVANIA, URGING ALL PENNSYLVANIA LEGISLATORS TO OPPOSE GOVERNOR WOLF'S PROPOSAL TO LEVY A FEE ON ALL LOCAL GOVERNMENT FOR THE FUNDING OF PENNSYLVANIA STATE POLICE.

WHEREAS, Kutztown Borough is a municipal corporation located in Berks County, Commonwealth of Pennsylvania, which is governed by the Borough Code; and

WHEREAS, the Borough Code authorizes a municipality to provide for police services for the public health, welfare and safety; and

WHEREAS, Kutztown Borough maintains and funds a full-time police department and full time coverage; and

WHEREAS, Kutztown Borough's General Fund budget for police services in 2021 is \$2,275,000, which represents 47% of the total 2021 General Fund budget of \$4,855,000; and

WHEREAS, Governor Wolf's proposed budget for the FY 2021-2022 outlined a municipal-imposed fee that would provide further funding for the Pennsylvania State Police; and

WHEREAS, under Governor Wolf's budget proposal, Kutztown Borough would

pay the Commonwealth of Pennsylvania an additional \$21,215.52; and

WHEREAS, The Pennsylvania State Police have been inequitably funded by Pennsylvania Legislative and Executive branches for many years; and

WHEREAS, The Kutztown Borough Council believes members of the Pennsylvania General Assembly and Governor should responsibly work together to find an equitable solution to properly fund the Pennsylvania State Police that will not place a financial burden on municipalities who already pay for full-time police services; and

NOW THEREFORE, BE IT RESOLVED that the Kutztown Borough Council of Kutztown Borough, Berks County, Commonwealth of Pennsylvania urges our local Commonwealth of Pennsylvania legislators, State Representative Gary Day and State Senator Judy Schwank, to not only oppose any imposition of fees for Pennsylvania State Police coverage on municipalities that pay for full-time police coverage independent of Pennsylvania State Police, but also work with Governor Wolf to find an equitable solution to fully fund the Pennsylvania State Police in the future.

RESOLVED AND ENACTED as a Resolution by the Council of the Borough of Kutztown, Berks County, Pennsylvania in lawful, regular meeting duly assembled this 20th day of April, 2021.

Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, To approve the Right-of-Way Agreement for 727 E. Walnut Street. Passed by unanimous vote.

Mr. Mace noted that if the Borough receives any Recovery Act funds, he would like it to be used for substation refurbishment.

Under Telecommunications and Information Technologies Committee, there was nothing to report.

Under Water and Wastewater Committee, there was nothing to report.

Off of the agenda, Mr. Seyler mentioned that Mr. Hull was absent from the Council meeting again, and he asked President Snyder if he received a response to the letter that was sent last month. Both President Snyder and Mr. Khalife said that had not heard from Mr. Hull.

A motion was made by Ms. Elliott, seconded by Mr. Seyler, Resolved, To send another letter to Mr. Hull regarding his status on Borough Council. Passed by unanimous vote.

Under Miscellaneous, a motion was made by Mr. Seyler, seconded by Ms. Elliott, Resolved, To contribute \$750.00, for 2021, to the Center for Excellence in Local Government. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Elliott, Resolved, To allow the Kutztown Area Historical society to reproduce the vehicle decorative Kutztown license plate and to sell them as a fundraiser for the Historical Society. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Ms. Elliott, Resolved, To adjourn the Council meeting upon vote. Passed by unanimous vote. The meeting ended at 9:30 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 March 13, 2021, through April 16, 2021, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

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Kevin J. Snyder

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Gina M. Wiand