

May 18, 2022  
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. 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. Andrea Rahn, Assistant Borough Secretary; Borough Planning Commission representatives Fred Engelhardt and Joel Seidel; and Kutztown Fire/Rescue representative Benjamin Hoffman were also present.

President Snyder noted the following vacancies:

Code Appeals Board:	Four Member Vacancies
	One Alternate Vacancy
Planning Commission:	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
Telecommunications Advisory Commission	Four Member Vacancies

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

- Review and accept the Minutes of the April 19, 2022, Borough Council meeting.
- Review and accept the Borough Community Development Report for April 2022.

- 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 15, 2022, through May13, 2022, as summarized below:

General Fund	\$174,134.50
Refuse and Recycling Fund	\$49,289.16
Water Fund	\$129,469.62
Electric Fund	\$420,008.37
Sewer Fund	\$115,455.96
Telecommunications Fund	\$8,450.42

Passed by unanimous vote.

Under Borough Planning Commission, President Snyder noted that the Planning Commission submitted a letter to Council expressing their concerns and recommendations related to the prevalence of tobacco/e-cigarette retailers within the Borough.

Mr. Engelhardt reviewed the Planning Commission's concerns regarding the prevalence of tobacco/e-cigarette retailers within the Borough. A main concern is that they are located on Main Street, which is a highly visible area to children.

After a lengthy discussion, Mr. Mooney suggested that the Planning Commission draft an Ordinance for Council's review.

Under Environmental Advisory Commission, President Snyder noted that the EAC submitted a letter to Council expressing their concerns about PCE contamination in our aquifer.

A motion was made by Ms. Ladd-Kidder, seconded by Mr. Mace, Resolved, To submit a letter to DEP expressing the EAC's concerns. Passed by unanimous vote.

President Snyder also noted that the Environmental Advisory Commission submitted a letter to Council with comments on the Foundry's response to their first set

of comments last December.

Mayor Schlegel commented that the Foundry is not making couplers at the Kutztown Plant and that submarine parts will be made in Kutztown.

A motion was made by Mr. Mace, seconded by Ms. Ladd-Kidder, Resolved, To send a formal letter to DEP outlining the EAC's concerns. Passed by unanimous vote.

Ms. Ladd-Kidder noted that a lot of yard waste was recently hauled away from the Whiteoak Street garden.

Under Community Development and Public Safety Committee, the Monthly Police Report for April 2022 was submitted.

Mr. Kusterer noted that the following fines were collected:

District Justice Greth	March 2022	\$5,717.91
Clerk of Common Pleas	March 2022	\$232.26
Secretary's Office	April 2022	\$4,850.00

A motion was made by Mr. Kusterer, seconded by Mr. Mace, Resolved, To introduce and authorize advertisement of the Fireworks Ordinance.

Mr. Mooney noted that there were blanks for "application fee" and "bond" in the Ordinance draft.

After further discussion, a motion was made by Mr. Kusterer, seconded by Mr. Mace, Resolved, To amend the motion still on the floor to include a \$100.00 application fee and a bond requirement. Passed by unanimous vote.

A motion was made by Mr. Kusterer, seconded by Mr. Mace, Resolved, To support speed reduction on College Boulevard, contingent upon Maxatawny Township adopting the same reduction measures. Passed by unanimous vote.

A motion was made by Mr. Kusterer, seconded by Mr. Mace, Resolved, To approve the mural at 310 Noble Street, contingent upon completion of the Community Development Office's Public Art Application. Passed by unanimous vote.

Under Public Works Committee, a motion was made by Mr. Seyler, seconded by Mr. Kusterer, Resolved, To adopt the proposed Resolution authorizing and ratifying the actions of Gabriel Khalife, Borough Manager of the Borough of Kutztown, to abate the emergency created by the failure of the North Park Bridge.

Ms. Ladd-Kidder requested to postpone or table the motion. She commented that she understands the problem, but she expressed her concerns with the Borough taking on the expense of a replacement bridge, at this time, when there are other financial issues and projects that require attention.

Mr. Kusterer stated that this is an emergency situation because there is equipment in that area that needs to be maintained and that fire trucks need to access in case of emergency.

Mr. Khalife stated that this will give the Borough the ability to bring in equipment to clear the area, and that nothing will be done without Council's permission.

Mayor Schlegel stated that he has contacted the National Guard to see if they can provide their services.

President Snyder called for the question. All those in favor, except for Ms. Ladd-Kidder who voted Nay. There being a majority in favor, the motion passed.

#### RESOLUTION NO. 6-2022

A RESOLUTION OF THE BOROUGH COUNCIL OF  
THE BOROUGH OF KUTZTOWN, COUNTY OF  
BERKS, COMMONWEALTH OF PENNSYLVANIA,  
AUTHORIZING AND RATIFYING THE ACTIONS

GABRIEL KHALIFE, THE BOROUGH MANAGER OF THE BOROUGH OF KUTZTOWN, TO ABATE THE EMERGENCY CREATED BY THE FAILURE OF THE NORTH PARK BRIDGE.

WHEREAS, the vehicular bridge located in North Park in the Borough of Kutztown, spanning the Sacony Creek (the “Bridge”) was severely damaged during the torrential rain storm that occurred on May 6, 2022; and

WHEREAS, the Bridge provides access to the Borough’s wastewater treatment plant and various portions of North Park to both Borough Employees and Borough Residents; and

WHEREAS, due to the unsafe condition of the Bridge and the Borough’s duty to abate the dangerous and unsafe conditions to protect the health, safety and welfare of residents and employees of the Borough, the Borough’s Engineer, Great Valley Consultants and its sub-consultants (GVC), have deemed the Bridge structurally unsound and is in the process of determining whether the Bridge can be repaired or is in need of total replacement; and

WHEREAS, Gabriel Khalife, the Borough Manager, has entered into contracts to begin to facilitate the emergency repair or replacement of the Bridge based on the completed structural analysis of GVC in order alleviate the clear and imminent danger to the health, safety and welfare of residents and employees of the Borough.

NOW THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Kutztown, Berks County, Pennsylvania, that the actions of Gabriel Khalife, the Borough Manager, to enter into contracts for the expedited repair or replacement of the Bridge to abate the clear and imminent danger to the health, safety and welfare of the residents and employees of the Borough is hereby authorized and ratified.

IT IS FURTHER RESOLVED, this action of the Borough Council of the Borough of Kutztown is taken under and consistent with subsection 1402(d)(1.2) of the Borough Code to authorize a contract for the mitigation of a real or potential emergency not requiring the advertising, bidding or procurement of price quotations pursuant to Chapter 14, sections 1401 and 1402 of the Borough Code, 8 Pa. C.S.A. § 1401 and §1402.

ADOPTED by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled this 18<sup>th</sup> day of May, 2022.

A motion was made by Mr. Seyler, seconded by Mr. Kusterer, Resolved, To approve the request from the Vietnam Veterans Breakfast Club to apply to bring the Vietnam Traveling Memorial to the Kutztown Park. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve the request from St. Paul's UCC to use the Band Shell on June 23, 2022, at 7:00 p.m., for a Grace Notes Gospel Big Band concert and to waive the Band Shell rental fee. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request from Diana Andujar to use the Scooter Building on June 12, 2022, for a birthday party. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To ratify the request from the KYAA to use the Scooter Building on May 5, 6 and 8; to use the Band Shell on May 7, 2022; and to waive the rental fees. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve the request from the KYAA to use the Scooter Building May 19 through May 22, 2022, and to waive the rental fees. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request from the Kutztown American Legion Baseball Association to have a Senior Regional Tournament July 23 through 25, 2022; to use of the Pamone Pavilion those days and to waive the rental fees. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve the request from Jenny Rakus to use the Scooter Building on May 29, 2022, for a graduation party. Passed by unanimous vote.

No action was taken on the agenda item to ratify the authorization of a study to determine what if any weight restrictions are needed for the North Park Bridge.

# 12408

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To provide free 2022 season pool passes to the following people/organizations: family passes for all full-time and part-time Borough employees; 15 family pass vouchers to the Kutztown Fire Company for the Chief to distribute to active members at his discretion; family passes to active Kutztown Community Partnership concession stand employees; 5 family passes for the Dolphin Swim Team Coaches and adult passes to the St. John's and Shaynah Kinner Daycare employees, which are only to be used when the employees are working. Passed by unanimous vote.

Under Personnel Committee, a motion was made by President Snyder, seconded by Mr. Kusterer, Resolved, To accept the resignation of Councilwoman Arabel Elliott, with regret, effective May 31, 2022. Passed by unanimous vote.

Mayor Schlegel stated that Ms. Elliott will be missed. She thanked everyone and said it was an honor to serve.

A motion was made by Ms. Elliott, seconded by Mr. Kusterer, Resolved, To accept the resignation of Margaret Devlin, with regret, from the Civil Service Commission, effective immediately. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Kusterer, Resolved, To transfer Lisa Dietrich, from the Community Development Office to the Administrative Front Office, as an Office Clerk, on June 10, 2022. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Kusterer, Resolved, To hire Kerry Eckert in the Electric Department, for the summer, at a rate of \$28.00 per hour. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Kusterer, Resolved, To increase Eric Boyer's salary, from \$24.97 to \$25.50, due to increased responsibility and work with the Community Development Office and related enforcement, effective May 19, 2022. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Kusterer, Resolved, To conditionally hire the following 2022 seasonal pool employees, contingent upon meeting all pre-employment requirements: Kian Kanasky, head lifeguard, \$12.15 per hour; Cassandra Sarnicky, assistant head lifeguard, \$11.41 per hour; McKaylah Booth, lifeguard, \$9.89 per hour; Gabriel Clauss, lifeguard, \$9.89 per hour; Thomas Crouse, lifeguard, \$9.42 per hour; Alyse Gammons, lifeguard, \$9.42 per hour; Natalie Harrell, lifeguard, \$9.89 per hour; Adam Petersen, lifeguard, \$9.89 per hour; Mackenzie Stoudt, lifeguard, \$9.42 per hour; Caroline Brown, office clerk, \$9.08 per hour; and Paige Geist, office clerk, \$9.08 per hour. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Kusterer, Resolved, To accept the resignation of Taylor Kutz, from the Kutztown Community Library, effective July 12, 2022. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Kusterer, Resolved, To hire Tara Sanders as the Kutztown Community Library Youth Librarian, at a rate of \$20.00 per hour, effective May 25, 2022. Passed by unanimous vote.

An Executive Session to discuss a personnel matter was deferred until the end of the meeting.

Regarding Ms. Elliott's resignation, Mr. Mooney stated that the Borough has 30 days to find a replacement or it will go to the Vacancy Board. He also noted that the



# 12410

replacement will fulfill the rest of the term until the next election.

Under Finance and Electric Committee, a motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, To enter into an Interconnection Agreement with the owner of 60 South Whiteoak Street. Passed by unanimous vote.

Mr. Mace noted that Electric Superintendent Steve Diehl is looking into AMP's Peak Generation Project involving diesel generators. These generators will keep yearly transmission and capacity costs lower and also serve as a backup source in case of loss of Met Ed transmission line.

Under Telecommunications and Information Technologies Committee, a motion was made by Ms. Ladd-Kidder, seconded by Mr. Kusterer, Resolved, To approve the use of WiFi Internet in the park, for KYAA, and to waive the fees (for very minimal bandwidth). Passed by unanimous vote.

A motion was made by Ms. Ladd-Kidder, seconded by Mr. Kusterer, Resolved, To approve the installation of a Knox Box on Borough Hall that would allow firefighters after-hours access to the building in the event of an alarm. Passed by unanimous vote.

Ms. Ladd-Kidder noted that the smoke alarm system in Borough Hall, the Police Department and the Train Station; and the water alarm systems have also been added.

Regarding Ms. Elliott's resignation, Mr. Khalife announced that candidate interviews will take place at the June Council meeting.

Under Water and Wastewater Committee, a motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the HRG Peach Street Proposal, contingent upon a reimbursement agreement from the County. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To execute the Peach Street Bridge Repair documents. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To authorize HRG to draft a proposal and cost estimate for the pump station rehab at Highland Avenue as part of PA DEP's order to submit a corrective action plan for Highland Avenue Pump Station/Drainage Area by the submission date for 2022's Ch.94 Report. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To notify the PA DEP of the rising PCE levels found in monitoring well #6a, with examples of some test results which now exceed the MCLs; and to send copies of this notice to the respective concerned agencies and organizations (i.e., Berks Country Conservation District, the Delaware River Basin Commission, Berks Nature, Maiden Creek Watershed Association, PA Senator Judith Schwank, Reading Area Water Authority and Maxatawny Township Supervisors). Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To request information from NESL (or PA DEP) on the different pumping rates at the quarry, along with the start and end dates of each pumping rate period, from the year 2015 to the present; and in order to maintain a more complete record, the Borough should ask NESL to inform the Borough whenever there is a change in the pumping rate, along with the start and end dates of that the pumping rate period. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To authorize the Borough Solicitor to send a letter to the PA DEP, Southcentral Regional Office, Bureau of Clean Water, with copies to MTMA, MT, HRG, and BCPC, notifying

all parties of the following information with respect to MTMA/Duke Realty's Sewer

Planning Module for Valley Logistics Park in Maxatawny Township:

1. That the Borough of Kutztown has never been consulted or informed by MTMA or PA DEP about any proposed design or redesign of the local sewer system.
2. That there are no agreements in place between the Borough of Kutztown and MTMA regarding any change to the current sewer service.
3. That MTMA must agree to be responsible for any and all expenses resulting from any change in local sewer service, i.e., an interruption of sewer service for the Borough, any needed additional equipment or parts, any damage to the Borough's equipment, any use of Borough staff for crisis management.
4. That the so-called Joint Comprehensive Plan among the Borough of Kutztown, the Borough of Lyons, and Maxatawny Township does not exist. It was never completed and signed.

Passed by unanimous vote.

Mr. Seyler noted that the Water/Wastewater Committee wishes to congratulate and thank the staff of the Borough Water Department on their 12<sup>th</sup> time being selected, their 10<sup>th</sup> consecutive time being selected, to receive an AWOP award for their excellence in the performance of the Borough's Water Filtration Plant. Out of the 16 top performing water filtration plants in PA, the Borough's Water Department is one of three treatment plants chosen to receive a personalized crystal 10 Year AWOP Award! The AWOP stands for the Area-Wide Optimization Program. This special crystal 10 Year AWOP Award is given at the Water Works Operators' Association of Pennsylvania's annual conference.

Mr. Kusterer asked what the Borough is doing about "the big bump" on Main Street. Mr. Seyler responded that PennDOT told the Borough to "mill the road down."

President Snyder called for an Executive Session, to discuss a personnel matter, at 8:53 p.m. The Executive Session ended, and the meeting reconvened at 9:06 p.m.

A motion was made by Ms. Elliott, seconded by Mr. Kusterer, Resolved, To deny the grievance by AFSCME. Passed by unanimous vote.

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 9:07 p.m.

Prepared by:

Gina M. Wiand  
Borough Secretary

Prepared and attested by:

Andrea Rahn  
Assistant Borough Secretary

Kevin J. Snyder and Andrea Rahn hereby ordered payment of the expenditures listed in the Accounts Payable G/L Distribution Report, including payment dates from April 15, 2022, through May 13, 2022, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

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Kevin J. Snyder

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Andrea Rahn