

May 19, 2020  
Kutztown, PA

A regular meeting of the Kutztown Borough Council was called to order at 7:32 PM via Zoom Telecom by the President, Mr. Kevin Snyder, with other members of Borough Council present: Mr. Derek, Mace, Mr. Edwin Seyler, Ms. Arabel Elliott, Ms. Amanda Raudenbush, and the Mayor, Mr. James Schlegel. Mr. Zebulon Hull was absent. Mr. Keith Mooney, Borough Solicitor; Mr. Gabriel Khalife, Borough Manager/Treasurer and acting Borough Secretary; Mr. Craig Summers, Police Chief; Ms. Judith Danko, Community Development Director.

A motion was made by Mr. Seyler, seconded by Ms. Raudenbush, Resolved, too appoint Mr. Gabriel Khalife as temporary/acting Borough Secretary. Passed by unanimous vote.

President Snyder noted that the Borough Council meet in Executive Session on April 27, 2020 at 7:00PM to discuss personnel and potential litigation, via Zoom teleconference.

President Snyder noted that Friend Inc. Community Service is available to assist our residents in need and they are encouraged to contact them if in need of their pantry or emergency services.

Presentation by Mr. Michael Oser, regrading AT&T Small Cell/Nodes Plan.

Mr. Michael Oser explained the 5G concept and the logistics of the pole placing, which will be a replacement of an existing pole, its height and size and the dimension's weight of the base unit to be attached. Mr. Oser was interested in receiving an indication from Council if the Borough is interested in moving forward with the request to install the 5G pole and allow the Borough's attorney to review the draft agreement and the terms for compensation. Mr. Seyler asked if the agreement would allow AT&T to locate in multiple locations. Mr. Mooney noted

that the agreement is for a dollar amount and for an individual site license agreement they would need to get other locations approved. Ms. Raudenbush inquired if consideration is being made to pedestrian safety and obstruction. Mr. Oser indicated that pedestrian traffic is taken into consideration at all times. Ms. Raudenbush asked about the need to have 5G available to be fully automated upon the introduction of fully automated vehicles. Mr. Oser indicated that he is currently working with PennDot on the matter of smart car technology and to the point of concern and need that Ms. Raudenbush has asked about. Mr. Oser's timetable is to first get an indication of commitment that the Borough has a serious interest in working with them and if so then they will move forward towards drafting a more formal master agreement and pole location plans. Mr. Snyder asked about the life span of the pole and 5G technology. Mr. Oser noted that although AT&T would be responsible for all expenses, the Borough would eventually own the pole. Mr. Oser noted that the 5G technology will become obsolete, but updated technology will be housed in the base. Right now some areas are already into 7G technology. They cannot co-locate because of the size of the base and low pole to and interference. This is a very competitive market and other companies will be approaching the Borough for their respective site locations. Ms. Ladd-Kidder noted that the Borough revised our ordinance in 2017 and that Mr. Oser should get in touch with Ms. Danko to become aware of our zoning and Conditional Use requirements. Mr. Oser indicated that he has not formally made application to the Borough to date, but he is aware the he must follow the Borough's zoning and application process and it is his practice to do so. Ms. Raudenbush asked if the plans are to replace or add a pole. Mr. Oser indicated he looks to replace, not add poles and it is very rare for him to look to add a pole. Mr. Seyler informed Mr. Oser that the Borough has our own

fiber. Mr. Oser will notify AT&T to inform them of the availability of the Borough's dark fiber. Ms. Danko notes that the Borough also provides electricity and asked if the pole would be metered or 'flat rate' for electric use. Mr. Oser noted that both approaches are done, in this case probably metered. Mr. Seyler, Chief Summers and Mr. Oser discussed the police cameras at the location being considered and Mr. Oser noted that they would look to replace the camera if needed and would ask that a staff member look at the site to review the plan. At Ms. Raudenbush's request, Mr. Oser will ask his engineers to allow Ms. Raudenbush to be present (from across the street if necessary for distancing) to be involved in the review. In response to Mr. Mace's question regarding the base unit size Mr. Oser noted that it is 4'x18"x4" and about 18" in diameter. In response to Ms. Ladd-Kidder's concern if the Borough moves ahead how does the Borough make sure they and others comply with our wireless ordinance. Ms. Danko reiterated that this falls under the Conditional Use application. She noted she also would like to be present at the time due to all of the current structures that are at each corner of this intersection. Mr. Mooney indicated the Borough ordinance requires all facilities to be reviewed in a formal hearing as these uses are listed as Conditional Uses. Ms. Raudenbush added that Special Exceptions are approved by the Zoning Hearing Board and Conditional Uses by Borough Council. Mr. Mooney also noted that they are approaching the Borough, if the Borough does not want to entertain their proposal they will seek out a private property owner.

A motion by Ms. Raudenbush Second by Mr. Seyler to have the documents forward to documents to Mr. Mooney for review. Passed by unanimous vote.

President Snyder noted the Board Vacancies:

Code of Appeals – Three Members and One Alternate Member

Zoning Hearing Board – Two Alternates Members

Housing License Appeals Board – Three Alternate Members

Environmental Advisory Commission – Two Members

Telecom Advisory Commission – Two Members

Civil Service Commission – One Member

President Snyder asked if there was anyone who wished to address Council

before proceeding with the agenda. No public comments were presented.

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

- Review and accept the Minutes of the February 18, 2020 Borough Council meeting.
- Review and accept the Minutes of the March 27, 2020 Borough Council Special meeting.
- Review and accept the Borough Community Development Report for February and March, 2020.
- 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 February 15, 2020, through April 15, 2020.
- To ratify going with NaturaLawn provided they use environmentally friendly products.
- Approve Kutztown Scout Troop 101 to have a flag retirement ceremony on the softball field on Tuesday June 16, 2020 in conjunction with the Flag Day concert.
- Approve the Relay for Life to put their 2020 sponsor signs up around town for their annual event.
- To make the annual \$500.00 contribution to the Berks County Solid Waste Authority
- Award a contract for tree removal service at the Sacony Trail to Creekside \$18,000.
- 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

Passed by unanimous vote.

Under Borough Planning Commission, there was nothing to report.

Review and accept courtesy review information in regards to proposed “Kutztown Storage Facility” plans in Maxatawny Township.

Ms. Raudenbush asked Ms. Ladd-Kidder what the Planning Commission’s position was on the Storage Facility. Ms. Ladd-Kidder stated that she supported Ms. Danko’s review and the need for sidewalks. After discussion with Ms. Danko who stressed she was pleased that Maxatawny Township did not

waive the need for sidewalks, but deferred the installation. Mr. Snyder asked what would the reason be for deferral. Ms. Raudenbush indicated that developers usually request a deferral in that they hope that they may never have to do the installation. Ms. Danko also noted she recommends that KMA and the Borough should consider not accepting any future utility lines, water and or sewer which are not located within Kutztown Borough, as it will be extra maintenance for them without compensation, unless an agreement was entered into in advance. She also recommended clear agreements be executed moving forward for any water and sewer projects, so that the Department Heads are able to accomplish their needs.

A motion was made by Raudenbush, seconded by Mr. Seyler to direct Ms. Danko to write a letter to Maxatawny Township to request that they require the sidewalks to be installed immediately rather than deferred. Passed by unanimous vote.

NOTE: The 2019 Borough Planning Commission Annual Report was submitted for Council's

Under Environmental Advisory Commission, President Snyder noted that there were no items for discussion or consideration.

Under Community Development and Public Safety Committee, the Monthly Police Report for February, March and April, 2020 were submitted and presented by Ms. Raudenbush.

Ms. Raudenbush noted that the following fines were collected:

District Justice Greth	January, 2020	\$3,659.52
Clerk of Common Pleas	January, 2020	\$107.33
Secretary's Office	February, 2020	\$6,975.00
Office Parking Kiosk	January, 2020	\$335.75
Parking Kiosk	February, 2020	\$498.75

District Justice Greth	February, 2020	\$3,861.60
Clerk of Common Pleas	February, 2020	\$7.32
Secretary's Office	March, 2020	\$6,325.00
Parking Kiosk	March, 2020	\$154.75

Police Chief Summers noted that it was a quiet month of April as Kutztown University closed early as well as the downtown. There was only one arrest in April, a domestic arrest.

Regarding Zoning Hearing Z-20-01, Mr. Seyler asked how this zoning request would affect the second floor if they need two additional parking spaces. Ms. Danko noted that they would have to takeaway one room or more to accommodate for the business. She said there has been an effort to re-think the parking requirements for business and alternatives like public parking options. The idea is to help bring business to the downtown

A motion was made by Ms. Raudenbush, seconded by Mr. Mace not to send the Borough Solicitor, on behalf of the Borough, to Zoning Hearing Z-20-01 regarding 263 West Main Street, on a to-be-determined date, Passed by unanimous vote

Regarding Zoning Hearing Z-20-02. Ms. Danko notated that this property is in the Heavy Industrial zoned area within the Borough. The uses proposed are not permitted in the zone, in addition the need for more parking. Ms. Danko notated that the proposed uses are good ideas for the Borough, although she noted that being there are many uses being proposed the Borough needs to set some conditions, she recommends that Mr. Mooney be present. A motion was made by Ms. Elliot, seconded by Mr. Seyler to send the Borough Solicitor, on behalf of the Borough, to Zoning Hearing Z-20-02 regarding 40 Willow Street, on a 'to-be-determined' date. Passed by unanimous vote.

Regarding Zoning Hearing Z-20-03, a motion was made by Ms. Raudenbush, seconded by Mr. Seyler not to send the Borough Solicitor, on behalf of the Borough, to Zoning Hearing Z-20-03 regarding 602 College Gardens, on a to-be-determined date. Passed by unanimous vote.

A motion was made by Ms. Raudenbush, seconded by Mr. Seyler to take a roll call vote regarding the Rental Housing and Downtown Business Strategic Plan prepared by Hailstone Economic A roll call vote was taken with all present voting 'ya'. Passed by unanimous vote.

Under Public Works Committee, a motion was made by Mr. Seyler, seconded by Ms. Raudenbush, to not open the Kutztown swimming Pool and not hold the park YMCA summer program due to safety and financial concerns for the 2020 season. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Raudenbush, to continue to keep the Kutztown Parks closed until at least May 30, 2020. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Raudenbush, to continue to advertise the following street work and public works infrastructure improvements for 2020:

Base Bid

1. N. Cedar Street (friction course)
2. N. Laurel Street (friction course)
3. Bandshell walkways
4. Legion Field walkways
5. Miscellaneous Trench repairs
6. Crack sealing

#### Alternate Bid items

1. Greenwich Street storm sewer improvements
2. Noble Street storm sewer improvements.

Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Raudenbush, motion to approve having Schlouch Inc. make the necessary repair to the storm line at North Kemp Street and East Walnut Street. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Raudenbush, to approve the Boy Scouts to reserve and use the entire park on September 26, 2020 from 7:00 a.m. until approximately 3:00 p.m. for a “first aid meet” and to waive the associated fees. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, motion to reserve Kutztown Park for the Taste of Kutztown, June 12, 2021. Passed by unanimous vote.

Under Personnel Committee, Regarding the MOA, Police Chief Summers noted that is has been successful to date, in that the offices that have participated are benefiting from it and have improved their conditioning and some have realized weight loss. A motion was made by Ms. Elliot, seconded by Ms. Raudenbush to Renew the Police Department memorandum of Agreement(MOA) regarding the Physical Fitness Incentive Program. Passed by unanimous vote.

A motion was made by Ms. Elliot, seconded by Ms. Raudenbush to Renew professional service Agreement with Ms. Sheila Sacks. Passed by unanimous vote.

A motion was made by Ms. Elliot, seconded by Mr. Mace to accept the resignation of Sue E. Kline, last day to be May 29, 2020, with regret and recognizing her 28 years of committed service to the Borough of Kutztown residents and wish her the best in her retirement. Passed by unanimous vote.

An Executive Session is requested to discuss personnel and legal matters.

Under the Finance and Electric Committee, A motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, to renew the pole attachment agreement, with Service Electric, for a 10-year term that includes the mutually agreed upon pole attachment annual fees. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Mr. Seyler, Resolved, to consider a resolution to extend the 2020 property tax discount period to September 30, 2020. Passed by unanimous vote.

Under the Telecommunications and Information Technologies Committee a motion was made by Ms. Elliot, seconded by Ms. Raudenbush to approve the temporary reduced internet tier pricing to be reflected in the May and June bills. Passed by unanimous vote.

Under the Water and Wastewater Committee motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, to authorize HRG to proceed with the Briar Cliff and College Gardens rehab once the loan is secured. Passed by unanimous vote. Mr. Mace commended the work of the two Kutztown University student interns that have been assisting the Wastewater Plant in performing valuable analysis of data, which will result in savings from I and I work and prevention.

A motion was made by Mr. Seyler, seconded by Ms. Elliott, Resolved, to approve Kutztown University student Robert Goold for a Summer internship in the wastewater department. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace Resolved, to approve a sewer credit, for 209 E. Walnut Street, in the amount of, \$746.68. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Raudenbush, to ratify a water credit for \$303.49 and a Sewer credit for \$363.37 for property at 223 W. Main St. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Elliot to support a letter to be sent to our local



Commonwealth legislatures to oppose a bill that would prohibit Pennsylvania municipalities from enacting a ban, tax, fee or surcharge on plastic bags. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Ms. Raudenbush, Resolved, to adjourn the Council meeting and move into Executive Session.

Upon returning from Executive Session a motion was made by Ms. Elliot and Second by Ms. Raudenbush to support the Personnel Committee's recommendation to deny the grievance by Officer Yerger and authorize Ms. Elliot to sign the denial letter. Passed by unanimous vote.

A motion was made by Mr. Seyler seconded by Ms. Elliot, Resolved, to adjourn the Council Meeting. Passed by unanimous vote.

The meeting ended at 9:30PM.

Prepared and Attested by: Gabriel Khalife  
Temporary/Acting Borough Secretary

Kevin Snyder and Gabriel Khalife hereby ordered payment of the expenditures listed in the Accounts Payable G/L Distribution Report, including payment dates from February 15, 2020, through April 15, 2020, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

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Kevin J. Snyder

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Gabriel Khalife