

May 20, 2021  
Kutztown, PA

A regular meeting of the Kutztown Borough Council was called to order at 7:36 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, Ms. Amanda Raudenbush, and the Mayor, Mr. James Schlegel. Councilman Zebulon Hull was absent. Mr. Keith Mooney, Borough Solicitor; Mr. Gabriel Khalife, Borough Manager/Treasurer; Ms. Gina M. Wiand, Borough Secretary/Public Relations and Marketing Director; Police Chief Craig Summers, Ms. Judith Danko, Community Development Director; Planning Commission representative Fred Englehardt; Scott Kramer, Bill McCarty, Tim Seyler, Mike Bast, Warren Shaub and Lisa Mitchell were also present.

Mayor Schlegel read aloud the proposed Resolutions awarding the Life Saving Award to Kutztown Borough Police Department Patrol Officer Robert C. Hriczko, Jr.

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

## RESOLUTION NO. 7-2021

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA TO AFFIRM THE RECOMMENDATION OF THE AWARDS REVIEW BOARD TO AWARD THE LIFE SAVING AWARD TO KUTZTOWN BOROUGH POLICE DEPARTMENT PATROL OFFICER ROBERT C. HRICZKO, JR.

WHEREAS, Kutztown Borough Police Department Standard Operating Procedure 2011-04 provides for the recognition of Police Officers who perform their duties in a manner beyond that which is normally expected; and

WHEREAS, the recognition of Police Officers is done by awards; and

WHEREAS, Standard Operating Procedure 2011-4 requires that the Council of the Borough of Kutztown affirm by resolution a recommendation by the Awards Review Board; and

WHEREAS, the Awards Review Board has recommended that Kutztown Borough Police Department Patrol Officer Robert C. Hriczko, Jr. be awarded the LIFE SAVING AWARD for performing an act in the line of duty. On April 19, 2021, through prompt and alert actions, during a choking event in which Officer Hriczko performed abdominal thrusts dislodging an item which prohibited the individual from breathing.

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED by the Council of the Borough of Kutztown to award the LIFE SAVING AWARD to Kutztown Borough Police Department Patrol Officer Robert C. Hriczko, Jr.

This Resolution shall become effective on May 20, 2021.

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

Passed by unanimous vote.

President Snyder noted the following vacancies:

Code Appeals Board:	Four Member Vacancies
	One Alternate Vacancy
Zoning Hearing Board:	Two Alternate Vacancies
Housing License Appeals Board:	Three Alternate Vacancies
Environmental Advisory Commission	Two 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.

Mike Bast, from the Allentown & Auburn Railroad, asked how to proceed with train rides with regard to COVID guidelines.

Ms. Elliott noted that all of the Borough's signs regarding COVID have remained the same.

Mr. Mooney explained that the CDC does not control what Pennsylvanians should

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do, and that the governor has lifted social distancing guidelines, including gathering limits; however, mask guidelines will not be lifted until 70% of Pennsylvanians are fully vaccinated.

Mr. Bast said that they would go back to operating the way they did before the pandemic, except they will require masks.

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

- Review and accept the Minutes of the April 20, 2021 Borough Council meeting.
- Review and accept the Borough Community Development Report for April, 2021.
- 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 17, 2021, through May 14, 2021, as summarized below:

General Fund	\$109,283.26
Refuse and Recycling Fund	\$15,688.45
Water Fund	\$46,069.45
Electric Fund	\$308,720.07
Sewer Fund	\$51,396.37
Telecommunications Fund	\$21,611.15

Passed by unanimous vote.

Under Finance and Electric Committee, Scott Kramer, from RBC Capital Markets, explained the transactions and rates regarding the refunding of the 2016 and 2016A bond issues. He noted that the Borough will save over three percent.

Bill McCarty, from Barley Snyder, explained the Ordinance for Council's consideration.

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

## ORDINANCE NO. 1-2021

AUTHORIZING THE INCURRENCE OF THE NONELECTORAL INDEBTEDNESS BY THE BOROUGH OF KUTZTOWN BY THE ISSUANCE OF A GENERAL OBLIGATION NOTE IN THE AGGREGATE PRINCIPAL AMOUNT OF SEVEN MILLION THIRTY THOUSAND DOLLARS (\$7,030,000), TO BE DESIGNATED AS THE “BOROUGH OF KUTZTOWN, GENERAL OBLIGATION NOTE, SERIES OF 2021”, FOR THE PURPOSES OF PROVIDING FUNDS FOR AND TOWARD THE COSTS OF THE REFUNDING OF THE GENERAL OBLIGATION BONDS, SERIES OF 2016, AND SERIES A OF 2016, OF THE BOROUGH, AND THE COSTS OF ISSUANCE OF THE NOTE; RESTATING THE REMAINING ESTIMATED USEFUL LIVES OF THE CAPITAL PROJECTS FINANCED OR REFINANCED BY SUCH REFUNDED BONDS; AUTHORIZING THE PREPARATION AND FILING OF A DEBT STATEMENT, BORROWING BASE CERTIFICATE, TRANSCRIPT OF PROCEEDINGS AND APPLICATION FOR APPROVAL; COVENANTING TO BUDGET FOR DEBT SERVICE ON THE NOTE AND TO APPROPRIATE AND PAY AMOUNTS FOR SUCH DEBT SERVICE WHEN DUE; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE BOROUGH FOR PAYMENT OF THE NOTE; SETTING FORTH THE SUBSTANTIAL FORM, DATE, INTEREST RATES, INTEREST PAYMENT AND PRINCIPAL INSTALLMENT PAYMENT DATES, MANNER OF PAYMENT AND MATURITY DATE OF THE NOTE; PROVIDING FOR THE OPTIONAL REDEMPTION OF THE NOTE PRIOR TO MATURITY; PROVIDING FOR THE MANNER OF REGISTRATION OF THE NOTE AND FOR THE MANNER OF PAYMENT AND EXECUTION OF THE NOTE; ACCEPTING A PROPOSAL FOR THE PURCHASE OF THE NOTE AND AWARDED THE SAME AT PRIVATE SALE UPON INVITATION; PROVIDING FOR THE APPOINTMENT OF A SINKING FUND DEPOSITARY AND PAYING AGENT IN CONNECTION WITH THE NOTE; MAKING COVENANTS OF COMPLIANCE WITH APPLICABLE PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986 AS TO THE TAX EXEMPT STATUS OF THE NOTE; DESIGNATING THE NOTE TO BE A QUALIFIED TAX EXEMPT OBLIGATION FOR THE PURPOSES OF SECTION 265(b)(3)(B) OF THE INTERNAL REVENUE CODE OF 1986; PROVIDING FOR THE REDEMPTION OF SUCH REFUNDED BONDS, UPON OPTIONAL REDEMPTION PRIOR TO MATURITY; AUTHORIZING EXECUTION AND DELIVERY OF BOND REDEMPTION AGREEMENTS WITH RESPECT TO THE REDEMPTION OF SUCH REFUNDED BONDS; AUTHORIZING OTHER NECESSARY OR APPROPRIATE ACTION; AND REPEALING ALL ORDINANCES OR PARTS THEREOF INsofar AS THE SAME SHALL BE INCONSISTENT HERewith.

Passed by unanimous vote.

Under Borough Planning Commission, Fred Englehardt read aloud a letter regarding Karen Feridun’s resignation.

A motion was made by Ms. Raudenbush, seconded by Mr. Mace, Resolved, To accept, with regret, Karen Feridun’s resignation, from the Planning Commission,

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effective immediately. 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 April, 2021 was submitted.

Ms. Raudenbush noted that the following fines were collected:

District Justice Greth	March, 2021	\$3,294.23
Clerk of Common Pleas	March, 2021	\$270.00
Secretary's Office	April, 2021	\$5,775.00
Parking Kiosk	April, 2021	\$315.25

A motion was made by Ms. Raudenbush, seconded by Mr. Mace, Resolved, To enact and ordain the following Ordinance:

## ORDINANCE NO. 2-2021

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, AMENDING: SECTION A231 OF THE CODE OF THE BOROUGH OF KUTZTOWN, ENTITLED "FEES FOR POLICE REPORT", BY CREATING SECTION A231-6F BY PROVIDING THAT THE SCHEDULE OF FEES AND CHARGES MAY BE AMENDED BY RESOLUTION OF THE BOROUGH COUNCIL AND SHALL BE KEPT ON FILE IN THE OFFICE OF THE BOROUGH SECRETARY AND AVAILABLE FOR PUBLIC INSPECTION IN THE OFFICE OF THE BOROUGH SECRETARY DURING THE BOROUGH'S NORMAL HOURS OF OPERATION; CHAPTER 212, ARTICLE VI OF THE OF THE CODE OF THE BOROUGH OF KUTZTOWN, ENTITLED "REMOVING AND IMPOUNDING OF CERTAIN VEHICLES" BY AMENDING SECTION 212-50 TO PERMIT THAT THE FEES STORAGE CHARGES FOR ALL VEHICLES IMPOUNDED AT THE CRIMINAL IMPOUND LOT MAY BE AMENDED BY RESOLUTION OF BOROUGH COUNCIL AND SHALL BE KEPT ON FILE IN THE OFFICE OF THE BOROUGH SECRETARY AND AVAILABLE FOR PUBLIC INSPECTION IN THE OFFICE OF THE BOROUGH SECRETARY DURING THE BOROUGH'S NORMAL HOURS OF OPERATION; CHAPTER 206 OF THE CODE OF THE BOROUGH OF KUTZTOWN ENTITLED "TRANSIENT RETAIL BUSINESS" BY AMENDING SECTION 206-3 TO PROVIDE THAT THE PERMIT FEE FOR TRANSIENT RETAIL BUSINESSES MAY BE AMENDED BY RESOLUTION OF BOROUGH COUNCIL AND SHALL BE KEPT ON FILE IN THE OFFICE OF THE BOROUGH SECRETARY AND AVAILABLE FOR PUBLIC INSPECTION IN THE OFFICE OF THE BOROUGH SECRETARY DURING THE BOROUGH'S NORMAL HOURS OF OPERATION.

Passed by unanimous vote.

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

RESOLUTION NO. 8-2021

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA AMENDING FEES IN CONNECTION WITH THE PROVISION OF POLICE REPORT, THE ISSUANCE OF TRANSIENT RETAIL BUSINESS LICENSES, THE IMPOUNDMENT OF MOTOR VEHICLES AND THE ISSUANCE OF ALARM DEVICE PERMITS.

WHEREAS, §A231-6F of the Code of the Borough of Kutztown provides that the fees for the provision of Police Reports, photos, video and sound payable by requesters shall be such as are approved by the Borough Council by Resolution, from time to time; and

WHEREAS, the Council of the Borough of Kutztown desires to amend in connection with the provision of Police Reports, photos, video and sound recordings; and

WHEREAS, §212-50 of the Code of the Borough of Kutztown provides for the fee in connection with the impoundment of motor vehicles to be amended by Resolution of Borough Council from time to time; and

WHEREAS, the Council of the Borough of Kutztown desires to amend the fee in connection with the impoundment of motor vehicles; and

WHEREAS, §206-3 of the Code of the Borough of Kutztown provides for the fee in connection with the issuance of transient retail business permits to be amended by Resolution of Borough Council from time to time; and

WHEREAS, the Council of the Borough of Kutztown desires to amend the fee in connection with the issuance of transient retail business permits; and

WHEREAS, §60-2E of the Code of the Borough of Kutztown provides for the fee in connection with the issuance of Alarm System permits to be amended by Resolution of Borough Council from time to time; and

WHEREAS, the Council of the Borough of Kutztown desires to amend the fee in connection with the issuance of Alarm System permits; and

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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 the following fees are hereby amended as follows:

1. A231-6C.

The following is a schedule of fees and charges in connection with furnishing police crash reports, confirmations of police incidents, digital photographs, video recordings and audio recordings:

<b>Documents</b>	<b>Fees</b>
Digital Photos	\$10 per photo or \$100 per DVD/or other Digital Storage Device
Accident Reconstruction Report (fatal crash)	\$10 per page
Replicate Video/Audio	\$100 per DVD/or other Digital Storage Device
Confirmation of Police Incident	\$15
Police Crash Report	\$15

2. Fees for the Impoundment of Motor Vehicles as established by §212-50 of the Code of the Borough of Kutztown.

The charges for towing and removing any vehicle impounded under the provisions of this article shall be the actual charge to or expense incurred by the towing service and/or the Borough in effecting the removal to the impound lot or criminal impound lot. In addition, the storage charges for all vehicles impounded at the criminal impound lot is fixed at \$15 per day or any fraction thereof during which said vehicle is there impounded pursuant to a criminal investigation. Storage charges for the criminal impound lot shall not begin to accrue until notice is given to the registered owner or their assign that the vehicle has been released and is to be removed from the criminal impound lot. The official towing service or services shall set forth their own reasonable storage fees for vehicles stored on the impound lot.

3. Fees for Transient retail Business Permits as established by §206-3 of the Code of the Borough of Kutztown.

Each and every person, firm, partnership, trust, corporation or other entity required by the foregoing section to procure the required transient retail business license shall submit a license fee in the amount of \$50 along with an application to the Kutztown Borough Police Department. All licenses issued

pursuant to this chapter shall remain in effect for 30 days from the date of issue

4. § A231-1.2Ch. 60, Alarm Systems.

A. Section 60-2E, initial issuance of an alarm device: \$25

BE IT FURTHER RESOLVED that, if any provision, sentence, clause, section or part of this Resolution shall for any reason be found unconstitutional, illegal or invalid, such determination shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution, and it is hereby declared to be the intent of the Borough Council that this Resolution would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not be included herein.

BE IT FURTHER RESOLVED that all Resolutions or parts of Resolutions and all existing portions of the Kutztown Code inconsistent herewith are hereby repealed.

BE IT FURTHER RESOLVED that the above-listed fees shall become effective May1, 2021.

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

Passed by unanimous vote.

The agenda item regarding 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 was tabled due to an advertising error.

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

RESOLUTION NO. 9-2021

A RESOLUTION OF THE BOROUGH OF KUTZTOWN,  
COUNTY OF BERKS, COMMONWEALTH OF  
PENNSYLVANIA ESTABLISHING FEES IN



## CONNECTION WITH THE MUNICIPAL COURT SUMMARY CASE DIVERSIONARY PROGRAM .

WHEREAS, The Borough of Kutztown Police Department in conjunction with Magisterial District Court 23-3-04 have established summary case diversionary program known as the Alternative Disposition Program or ADP Program; and

WHEREAS, the ADP Program permits violators of certain summary offenses to participate in a probationary program and upon successful completion have the summary offense removed from their record; and

WHEREAS, The Borough of Kutztown Police Departments participation in the ADP Program requires the expenditure of time and personnel; and

WHEREAS, The Borough desires to place the cost of the Borough's participation in the ADP Program on the program participants; and

WHEREAS, the Council of the Borough of Kutztown desires to promulgate a fee in connection with the ADP Program.

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 the following fee is hereby established in conjunction with the ADP Program:

Every participant in the ADP Program shall pay a fee of Fifty and 00/100 Dollars (\$50.00) upon entrance into the ADP Program. Said fee is non-refundable and is a prerequisite to entrance in the program.

BE IT FURTHER RESOLVED that, if any provision, sentence, clause, section or part of this Resolution shall for any reason be found unconstitutional, illegal or invalid, such determination shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution, and it is hereby declared to be the intent of the Borough Council that this Resolution would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not be included herein.

BE IT FURTHER RESOLVED that all Resolutions or parts of Resolutions and all existing portions of the Kutztown Code inconsistent herewith are hereby repealed.

BE IT FURTHER RESOLVED that the above-listed fees shall become effective June 1, 2021.

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

assembled.

Passed by unanimous vote.

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

RESOLUTION NO. 10-2021

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, APPROVING THE SALE OF A JOHN DEERE GATOR AND TWO EXMARK LAZER MOWERS, TO NIMROD'S FISH & WILDLIFE ASSOCIATION, INC., FOR \$300.00.

IT IS HEREBY RESOLVED by the Council of the Borough of Kutztown, Berks County, Pennsylvania (hereinafter "the Borough"), in accordance with Section 1201 (4) of the Borough Code, as follows:

RESOLVED, that the Borough shall sell a John Deere Gator and two Exmark Lazer mowers, having a total estimated sale value of Three Hundred Dollars (\$300.00), to Nimrod's Fish & Wildlife Association, Inc.

APPROVED as a Resolution by the Council of the Borough of Kutztown, Berks County, Pennsylvania in lawful, regular meeting duly assembled this 20<sup>th</sup> day of May, 2021.

Passed by unanimous vote.

Mr. Seyler noted that the equipment was damaged in a flood.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To provide free season pool passes, for the 2021 season, 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

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employees; 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.

President Snyder asked if the passes for the pool concession stand workers were good only while they are working, and Ms. Wiand clarified that that rule applies to the day care workers only.

A motion was made by Mr. Seyler, seconded by Ms. Raudenbush, Resolved, To approve setting the following commercial rates for Band Shell rentals as an addendum to the Borough's park rental rates effective upon approval: a for profit commercial rate of \$500.00; and out-of-area not for profit commercial rate of \$250.00. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Raudenbush, Resolved, To approve the request, from Jake Bermel, to rent the Scooter Building on July 24, 2021, provided he vacates the building by 6:00 p.m. as to not interfere with that evening's concert in the park, and that all COVID guidelines in place at that time are followed. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Raudenbush, Resolved, To approve the request, from Jordan Loeb, to rent the Band Shell on September 3 and 4, 2021, for a wedding, and to only charge him \$110.00 for a one-day rental, provided all COVID guidelines in place at that time are followed. Passed by unanimous vote.

Ms. Raudenbush asked why he would only be charged for one day, and Mr. Seyler explained that they will only come in to clean and decorate the day before, so the fee is being waived.

A motion was made by Mr. Seyler, seconded by Ms. Raudenbush, Resolved, To approve the request, from Katie Muth, to rent the Scooter Building on June 5, 2021, provided all COVID guidelines in place at that time are followed. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request, from Nita Hess, to place a memorial bench in the park and for her to coordinate the project with Brian Bailey. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Raudenbush, Resolved, To approve the request, from the Dolphin Swim Team, to rent the Brick Pavilion on May 11, 2021, for their registration, and to have the rental fee waived, provided all COVID guidelines in place at that time are followed. Passed by unanimous vote.

Under Personnel Committee, a motion was made by Ms. Elliott, seconded by Ms. Raudenbush, Resolved, To appoint Shelley Grim to the position of Community Development Coordinator effective May 3, 2021. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Mace, Resolved, To appoint Andy Janiszewski as a summer intern to work on the North Park and Public Works parks and trails. Passed by unanimous vote.

A motion was made by Ms. Elliott, seconded by Mr. Mace, Resolved, To renew the professional service agreement with Sheila Sacks. Passed by unanimous vote.

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

Under Water and Wastewater Committee, a motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve a \$500.00 donation to the Eastern

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Pennsylvania Water Pollution Control Operators Association Scholarship Fund. Passed by unanimous vote.

Under Miscellaneous, Mr. Mooney said that he would keep Council apprised of any changes to Borough meeting locations as more COVID regulations are lifted.

Mr. Seyler stated that Councilman Zebulon Hull sold his house and is no longer a Borough resident. He asked Mr. Mooney if the Borough could petition a judge for his resignation if he does not resign on his own. Mr. Khalife interjected that he received an E-mail from Mr. Hull saying that he would resign once his house sells.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To adjourn the Council meeting upon vote. Passed by unanimous vote. The meeting ended at 8:18 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 April 17, 2021, through May 14, 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