

September 17, 2024  
Kutztown, PA

A regular meeting of the Kutztown Borough Council was called to order at 7:31 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. Lisa Ladd-Kidder, Mr. George Kusterer, Mr. Frederick Engelhardt, 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; Kutztown Planning Commission representative Bob Weller; CZC Design Group representatives Scott Sweigart and Brian Focht; Villas of Maxatawny representative Brian Kobularcik; Phi Sigma Sigma representative Kenzie Kolb; and resident Elizabeth Rohrbach were also present.

Mr. Kusterer opened the meeting with a prayer.

President Snyder announced that Borough trick-or-treat night will be Thursday, October 31, 2024, from 6:00 p.m. until 8:00 p.m.

President Snyder noted the following vacancies:

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

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

Kenzie Kolb asked for Council's permission to have a Phi Sigma Sigma grilled cheese sale on September 28. She said they have done this in the past with permission from former Chief Summers, and that she has permission from the affected landlords to be outside of their properties.

A motion was made by Mr. Mace, seconded by Mr. Engelhardt, Resolved, To approve the Phi Sigma Sigma grilled cheese sale pending a conversation with Chief Clery. Passed by unanimous vote.

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

- Review and accept the Minutes of the August 20, 2024, Borough Council meeting.
- Review and accept the Borough Community Development Report for August 2024.
- 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 August 17, 2024, through September 13, 2024.

|                           |              |
|---------------------------|--------------|
| General Fund              | \$403,977.02 |
| Refuse and Recycling Fund | \$42,388.64  |
| Water Fund                | \$112,699.63 |
| Electric Fund             | \$277,962.75 |
| Sewer Fund                | \$75,205.88  |
| Telecommunications Fund   | \$42,386.53  |

Passed by unanimous vote.

Under Borough Planning Commission, Bob Weller reported that they are working on the short-term rental Ordinance with Solicitor Mooney's help. He also said that Albany and Greenwich Townships have backed out of the Joint Comprehensive Plan.

Under Environmental Advisory Commission, there was nothing to report.

Under Community Development and Public Safety Committee, the Monthly Police Report for August 2024 was submitted.

The following fines were collected:

|                        |             |            |
|------------------------|-------------|------------|
| District Justice Greth | August 2024 | \$1,490.78 |
| Clerk of Common Pleas  | August 2024 | \$424.53   |
| Secretary's Office     | August 2024 | \$600.00   |

A motion was made by Mr. Kusterer, seconded by Mr. Mace, Resolved, To approve the proposed Body Worn and In-Car Camera Systems Standard Operating Procedure. Passed by unanimous vote.

Under Public Works Committee, a motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request from HRG for a time extension request for the Pedestrian Improvements Project to October 31, 2024, and final payment date to November 15, 2024. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve Payment Application No. 2 to LB Construction Enterprises, Inc., in the amount of \$67,195.80, for the Pedestrian Improvements Project. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Kusterer, Resolved, To approve Stage One of the agreement, with ACELA, for the Public Works building proposal, and to add a clause for the Borough to terminate the agreement at any time as well as between Stages One and Two.

Ms. Ladd-Kidder stated that she thought the agreement was for six months, not three months. Mr. Mooney said that term is their amount of time to terminate.

Ms. Ladd-Kidder asked if the Borough is in for \$200,00.00, but can stop it between stages 1 and 2, and Mr. Mooney said that is correct.

Mr. Khalife noted that the Borough needs to put this on fast track because of the lease at 324 W. Main Street.

Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve the Signal Service, Inc. traffic signal maintenance contract renewal. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve the 2024 leaf collection schedule. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Engelhardt, Resolved, To approve the 2025 refuse and recycling schedule. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Kusterer, Resolved, To approve May 31 and August 9 as the 2025 Electronics Recycling dates. Passed by unanimous vote.

Mr. Kusterer asked that we remind RRS to have pricing flyers available during their events.

A motion was made by Mr. Seyler, seconded by Mr. Engelhardt, Resolved, To ratify approval of the 2024 Polling Place Agreement. Passed by unanimous vote.

A motion was made by Mr. Engelhardt, seconded by Mr. Seyler, Resolved, To authorize the Kutztown Optimist Club to coordinate with Brian Bailey to make upgrades to the horseshoe and quoit pit, and to plant trees near the pit.

Mr. Mace asked if the trees had been checked by the EAC, and Mayor Schlegel responded that the trees were already purchased.

Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve the 2025 landfill agreement.

Mr. Seyler inquired about the rate, and Mr. Khalife responded that the tipping fees will need to increase, and rates will likely increase in 2025 and 2026.

Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To approve the request from the PA Parole Board to use the Brick Pavilion, on September 27, 2024, for their annual picnic in support of PA Probation and Parole Week, and to waive the rental fee. Passed by unanimous vote.

Under Personnel Committee, a motion was made by Mr. Engelhardt, seconded by Ms. Ladd-Kidder, Resolved, To appoint Lisa Foreback, as a member of the Environmental Advisory Commission, whose term shall expire on February 1, 2026. Passed by unanimous vote.

The agenda item to approve employee donations of sick time for Officer Brayden Lewis and to enter into a Side Letter of Agreement for the donations of sick time to Officer Brayden Lewis was deferred until after the Executive Session.

A motion was made by Mr. Engelhardt, seconded by Ms. Ladd-Kidder, Resolved, To promote Jared Babel to 2<sup>nd</sup> Class Lineman beginning with the September 20, 2024 pay. Passed by unanimous vote.

An Executive Session to discuss personnel and legal matters was deferred until the end of the meeting.

Under Finance and Electric Committee, a motion was made by Mr. Mace, To put the collection of Per Capita Tax Bills on moratorium per Solicitor Mooney's guidance.

Mr. Mooney advised Council to draft a Resolution exonerating all residents of the Per Capita Tax on an annual basis. The above motion died for lack of a second.

A motion was made by Mr. Mace, seconded by Ms. Ladd-Kidder, Resolved, To table the motion to put the collection of Per Capita Tax Bills on moratorium until next month. Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Mr. Kusterer, Resolved, To approve the request from Topton Community Ambulance Service to release \$90,000.00 for use on truck purchases, remounts, and equipment.

Mr. Mace asked if there would be an outside audit done for the \$90,000.00, and Todd Evans responded that there is an outside audit done every year. Mr. Mace asked him to please share the report with Council annually.

Passed by unanimous vote.

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

## RESOLUTION NO. 8-2024

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, DECLARING THAT FIVE PERCENT CONTRIBUTION IS REQUIRED BY EACH FULL-TIME POLICE OFFICER OF THE BOROUGH OF KUTZTOWN, NOW OR HEREAFTER ELIGIBLE FOR PARTICIPATION IN THE POLICE PENSION PLAN, INTO THE POLICE PENSION FUND FOR THE CALENDAR YEAR 2025.

WHEREAS, the members of the Council of the Borough of Kutztown, Berks County, Pennsylvania were notified on September 17, 2024, of the 2025 Minimum Municipal Obligation for the Police Pension Plan, after consulting with the Plan's actuary; and

WHEREAS, the calculation of the 2025 Minimum Municipal Obligation for the Borough of Kutztown Police Pension Plan requires that each full-time police officer of the Borough of Kutztown, now or hereafter eligible for participation in the Police Pension Plan, contribute into the Police Pension Fund during the calendar year of 2025.

NOW, THEREFORE, BE IT RESOLVED, that a five percent contribution is required to be made into the Police Pension Fund for the calendar year 2025, by each full-time police officer of the Borough of Kutztown, now or hereafter eligible for participation in the Police Pension Plan for the calendar year of 2022, as provided for in §33-8, of the Code of the Borough of Kutztown, Berks County, Pennsylvania.

ADOPTED AND RESOLVED by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in a lawful session duly assembled this 17<sup>th</sup> day of September 2024.

Passed by unanimous vote.

Mr. Mace noted that the Minimum Municipal Obligation (MMO), for 2025, for the Uniform Pension Plan is \$106,502.00, and for the Non-Uniform is \$533,758.00.

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 send another comment letter to DEP regarding New Enterprise Stone & Lime's for a renewal of its NPDES Permit #PA0224499. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Ms. Ladd-Kidder, Resolved, To adopt the following Resolution:

RESOLUTION NO. 9-2024

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, REQUESTING A STATEWIDE LOCAL SHARE ASSESSMENT GRANT OF \$1,000,000.00, FROM THE COMMONWEALTH FINANCING AUTHORITY, TO BE USED FOR THE REPLACEMENT OF APPROXIMATELY 2,400 LINEAR FEET OF WATER DISTRIBUTION MAINS ALONG WILLOW STREET IN KUTZTOWN BOROUGH ALONG WITH THE REPLACEMENT OF FIRE HYDRANTS AND INDIVIDUAL SERVICE CONNECTIONS AS PART OF THE WILLOW STREET WATER MAIN REPLACEMENT PROJECT.

WHEREAS, the Borough of Kutztown (Applicant) of Berks County hereby requests a Statewide Local Share Assessment grant of \$1,000,000.00, from the Commonwealth Financing Authority, to be used for the replacement of approximately 2,400 linear feet of water distribution mains along Willow Street in Kutztown Borough along with the replacement of fire hydrants and individual service connections as part of the Willow Street Water Main Replacement Project.

NOW, THEREFORE, BE IT RESOLVED, that the Applicant does hereby designate Kevin J. Snyder, Council President and Gabriel Khalife, Borough Manager/Treasurer, as the official(s) to execute all documents and agreements between the Borough of Kutztown and the Commonwealth Financing Authority to facilitate and assist in obtaining the requested grant.

ADOPTED AND RESOLVED by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in a lawful session duly assembled this 17<sup>th</sup> day of September 2024.

Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To approve the request of the Kutztown High School to install a secondary water meter on their irrigation line, and to approve the consumption of this meter be subtracted from the main High School meter; therefore, the consumption from the secondary meter on the irrigation line will not be charged for sewer, since the water will not go through the sewer line for treatment. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To authorize and sign the Sewer Planning Module pertaining to the Villas of Maxatawny.

Ms. Ladd-Kidder said that she is concerned about providing utility service to the Villas of Maxatawny project because of the proximity to the Sacony Creek floodplain and other elements.

She noted that the Planning Commission and Borough Council sent letters in May requesting reports, but they were never received. Another letter was also sent in July, and



Right-to-Know requests were submitted and denied due to federal copyright laws.

Ms. Ladd-Kidder reiterated her concern about the project going forward, and she asked if a condition could be placed. Mr. Mooney explained that the module gets sent to DEP to confirm there is enough capacity, and you cannot put conditions on the module.

Ms. Ladd-Kidder stated that she wants to be responsibly informed.

Scott Sweigart, one of the developers for the Villas of Maxatawny, explained that the post-stormwater conditions cannot exceed the pre-stormwater conditions, and testing was done in April.

Mr. Mooney noted that the plan will need to be revised to address stormwater comments.

Brian Focht, another one of the developers for the Villas of Maxatawny, said that they will send a letter to Maxatawny Township authorizing the release of information and plans to the Borough.

Passed by unanimous vote.

Under Miscellaneous, a motion was made by Mr. Mace, seconded by Ms. Ladd-Kidder, Resolved, To authorize Gina Wiand to work with CGI to update the Borough's Web site video tour, and to execute the agreement, at no cost to the Borough. Passed by unanimous vote.

President Snyder called for an Executive Session to discuss personnel and legal matters at 8:20 p.m.

The Executive Session ended, and the meeting reconvened at 8:33 p.m.

A motion was made by Mr. Engelhardt, seconded by Ms. Ladd-Kidder, Resolved, To approve employee donations of sick time for Officer Brayden Lewis and to enter into

# 12690

a Side Letter of Agreement for the donations of sick time to Officer Brayden Lewis.

Passed by unanimous vote.

A motion was made by Mr. Mace, seconded by Mr. Kusterer, Resolved, To adjourn the Council meeting upon vote. Passed by unanimous vote. The meeting ended at 8:34 p.m.

Prepared and Attested by: Gina M. Wiand  
Borough Secretary

Kevin J. Snyder and Gina M. Wiand hereby ordered payment of the expenditures listed in the Accounts Payable G/L Distribution Report, including payment dates from August 17, 2024, through September 13, 2024, 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