

November 19, 2019
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, Mr. Richard Diehm, Mr. Scott Piscitelli, Ms. Arabel Elliott, 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; Mr. Craig Summers, Police Chief; Ms. Judith Danko, Community Development Director; Kutztown Community Partnership/Kutztown University Community Liaison Sandy Green; Kutztown Community Partnership and Planning Commission representative Joel Seidel; Barley Snyder representative Bill McCarty; "Project 113" representative Colin Williams; Kutztown Transportation Authority representative Tim Seyler; City Cuts Barbershop representative Jon Escueta; Allentown and Auburn Railroad representatives Steve, Leatherman, Mike Fenstermaker, Charles R. Beck, Jr., Mike Bast, David G. Hoffman, Nathan Haydt and Nicholas Hofke; Kutztown Community Partnership representative Allison Fuller; Kutztown Patriot representative Kaylee Lindenmuth; Kutztown Area Transport Service representative Rodney Freeman; CROWW representative Warren Shaub; "FMLA" representatives Angel Jarrett-Crenshaw, Nevada Walker, Joshua Gonzalez, Maya Evans, Caroline Adrius and Kylin Camburn; Kutztown Fire Company representative Eric Diehl; visitors Mike Pieroa, Steve Mallon and Kylin Camburn; and residents Jan, Crooker, Andrew Vogel, Christen Taylor, Fred Engelhardt, Jody Reidenhour, Kathy Kelly, Margaret Devlin, Jeff Dietrich, Marilyn Fox, Gene Mosca,

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Laurie Swanson, Erin Kraal, Adam Bullock, Rachel Lambdin, Todd Evans, Deborah

Clauss and Phila Back, were also present.

President Snyder noted the following vacancies:

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

President Snyder noted that the Borough wishes to extend warmest congratulations to the Kutztown Community Library for celebrating 70 years this month!

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

Jan Crooker spoke in opposition of the monster truck event planned at the Fairgrounds, and she warned about noise, dust and dirt the event will bring. She asked to consider not allowing it.

Phila Back provided a six-page handout to Council and asked them to use more control over the Allentown and Auburn Railroad's use of the Train Station. In her memo, she "insists that Council make as conditions of A&A's use of the station in 2020," the following items:

1. A&A limit the idling of their diesel engines to five minutes per tour.
2. That they be allowed to operate a coal-fired engine online one weekend every other year.

In her memo, she also "demanded" that Councilman Seyler and Mayor Schlegel abstain from voting due to conflicts of interest.

Mr. Piscitelli asked Ms. Back about the air quality study that was performed near

her home. She said it was an “incomplete test” because it didn’t cover the entire length of time the trains operated that day. Mr. Piscitelli disagreed.

Jeff Dietrich commented that there are more appropriate places to stage a monster truck event, rather than a Fairgrounds that is surrounded by residential neighborhoods.

In addition, he noted that he has been attending the Rental Housing Strategy Plan Task Force meetings, and that one of the recurring discussion points has been finding ways to attract more families to Kutztown. He stated that current residents are making plans to get out of town, during the monster truck event, and he asked if it was the consensus of Council and the Solicitor that a special event, like the monster truck event, would have to be voted on each time, or if it could become grandfathered. He also asked if approving the monster truck event, as a special event, was a way for certain individuals to circumvent the rules and exempt the event from noise and time limitations as set by a judge. Mr. Piscitelli replied that proposed events would need to be voted on each time.

Marilyn Fox also opposed the monster truck event, and she stated that she likes the idea of using the Fairgrounds, but she is interested in the consideration of other events. She suggested working together to have family friendly events like craft fairs, art fairs and concerts. She said that she is willing to work with Council on ideas for events.

Mr. Mooney explained how racing became allowed in the Borough: several years ago, the Borough went to court in an attempt to shut down racing at the Fairgrounds, but a Berks County judge ruled against the Borough and said that racing is something historically held at a Fairgrounds and he decided that there could be 12 racing events per year. Mr. Mooney also reminded everyone that the Fair Board’s request to the Borough, in October, was whether or not the Borough would consider the monster truck event as

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one of the 12 allowed races or if it would be considered an entertainment event. Council voted that it would be considered an entertainment event.

Mr. Seyler noted that the Fair Board is wanting and willing to have more events, and he said he would get contact information for Ms. Fox and Ms. Crooker. He clarified that the Borough does not own the Fairgrounds and does not oversee the Fair Board.

Tim Seyler asked Council and the Solicitor to address Ms. Back's comment regarding the voting conflict of interest she mentioned regarding Councilman Ed Seyler, because Tim Seyler, his brother, is a member of the Kutztown Transportation Authority. Mr. Mooney stated that there is no conflict, because there is no monetary gain for Tim Seyler as a member of the Kutztown Transportation Authority. Tim Seyler asked if the same applies to Mayor Schlegel and his son, Andy, who is also a member of the Kutztown Transportation Authority. Mr. Mooney confirmed that the same rule applies to the Schlegels.

Warren Shaub asked about the following line on the agenda: "the water and sewer rates will each include a monthly \$2.00 per meter charge for an Infrastructure Improvements Fund." He stated that his research shows that nationwide, the Borough's water rates are comparatively high, and that flat rates comprise about 55% of his bill. He pointed to a lack of information given to residents about these fees and asked where the money will go.

Mr. Seyler explained that the infrastructure charges for water and sewer are solely for infrastructure, and have nothing to do with water or sewer usage.

Mr. Khalife clarified that the Borough has about 2,000 meters, and he explained the high cost of opening the road to fix pipes as well as the strict regulations that are

continually handed down by the state, which both affect costs to the Borough and its residents.

Mr. Mace defined a term frequently used by Mr. Khalife, “I&I,” as influent and infiltration, which is how rain water, that should not be in the system, is treated. He also noted that the Borough is in the bottom 50% of cost in the County, and that the proposed increase does not move the Borough up on the list very much.

Ms. Wiand explained the process of advertising and then adopting rates before posting them on the Borough’s Web site or mailing information to residents, because it is not until after adoption that the rates are approved and put in to effect. Mr. Shaub asked if the rate increase information would be made available to the public, and Ms. Wiand replied that it would after the rates are adopted by Council in December.

Gene Mosca distributed a memo to Council regarding the Climate Change and the Energy Innovation and Carbon Dividend Act (HR 763), and he asked Council to endorse this legislation.

Laura Nevitsky and Kylin Camburn spoke as advocates for climate change and in support of Ms. Back’s proposed conditions for the Allentown and Auburn Railroad.

Lori Swanson addressed her concerns about the coal trains. She said that while her family loves the trains, she would like more information about how often the coal trains are running and about their particulates, because she believes the study that was previously done was only for the diesel trains.

Former Councilwoman Margaret Devlin commended and thanked Council for the work they do. She noted that she was disappointed in the decision made regarding the monster truck event to be considered a separate event, because she recalled many

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complaints about the race track when she was on Council. She asked Council to either reconsider their decision or to at least not keep adding to the list of separate events in the future.

Deborah Clauss stated that she and her family live in the Borough and support the trains. She reminded everyone that tests were done and the negative impact is low.

Rodney Freeman, from Kutztown Area Transport Service (KATS), announced an equipment fund drive that starts next week. KATS is looking to purchase two LUCAS devices, at \$20,000.00 each, which are meant to “provide perfect CPR every time.”

Ms. Elliott thanked everyone who voiced their opinions on public health and safety, and she read the following statement for the record:

“I agree with Phila Back and others in our community on the importance and urgency of matters related to climate change, the risks it poses to public health and safety, and the impact for future generations. I am grateful for her commitment to consistently bring these issues forward. However, I am concerned with the selective use of data and information provided by Ms. Back, for example her reference of a recent article from the New York Times dated November 13, 2019. Mrs. Back fails to share that the Lancet Study in that article sites over 41 factors across 5 different domains affecting the rise in global temperature and the negative impact it has had on the health of children. Carbon emissions are an issue, so is particulate matter released due to phenomena such as wildfires in the Western United States. Then there is the impact of other mitigating factors described throughout the full 43-page report. As the parent of children raised in this community, and an elected official serving this community, it is my responsibility to look at all the factors. Issues such traffic patterns, trash and recycling, community clean ups, sidewalk access and public transportation among many others come to mind. Mrs. Back suggests in her letter that unless the Borough imposes additional restrictions on the single source of emissions from KTA trains, vehicles that comply with standards set by both the US Environmental Protection Agency and the Pennsylvania Department of Environmental Protection, that it shows disregard for the current and future health and safety of our own families and our community. I believe this is both untrue and dangerous. In order for programs, policies and decisions to be sustainable and environmentally responsible for the whole community they must be based on information that is clear, complete and transparent rather than selective and narrow. I

remain committed to the former and warn against the use of the latter in our efforts to secure a cleaner and healthier community now and in the future. Thank you.”

RBC Capital Markets representative, Ryan Brockman, reviewed that rates are at a near all-time low; and Bond Counsel, Bill McCarty noted that if they take action, Council would be authorizing scheduled debt.

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

ORDINANCE NO. 3-2019

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, INCURRING NONELECTORAL DEBT TO BE EVIDENCED BY ONE OR MORE SERIES OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AUTHORIZED AGGREGATE PRINCIPAL AMOUNT OF EIGHTEEN MILLION DOLLARS (\$18,000,000), TO PROVIDE FUNDS FOR AND TOWARD THE PARTIAL OR FULL REFUNDINGS OF THE OUTSTANDING GENERAL OBLIGATION NOTES, SERIES OF 2017, AND SERIES A OF 2017, OF THE BOROUGH, THE COST OF THE PLANNING, DESIGN AND CONSTRUCTION OF IMPROVEMENTS, ADDITIONS, RENOVATIONS AND EXTRAORDINARY REPAIRS TO, THE ACQUISITION OF REAL ESTATE INTERESTS FOR, AND THE ACQUISITION AND INSTALLATION OF RELATED EQUIPMENT, MACHINERY AND FURNISHINGS WITH RESPECT TO CAPITAL PROJECTS FOR VARIOUS BUILDINGS AND FACILITIES OF THE BOROUGH, INCLUDING A MUNICIPAL BUILDING AND SEWER AND WATER FACILITIES, TOGETHER WITH RELATED DESIGN PROFESSIONALS', ARCHITECTS', ENGINEERS', ATTORNEYS' AND CONSULTANTS' FEES, AND THE COSTS OF ISSUANCE OF THE BONDS; STATING THE PURPOSE OF THE REFUNDINGS; STATING THE ESTIMATED USEFUL LIVES OF THE CAPITAL ITEMS INCLUDED IN THE PROJECT TO BE FUNDED BY THE BONDS, AND RESTATING THE REMAINING ESTIMATED USEFUL LIVES OF THE CAPITAL PROJECTS FINANCED AND REFINANCED BY THE NOTES TO BE REFUNDED; STATING THAT REALISTIC COST ESTIMATES HAVE BEEN MADE FOR THE CAPITAL PROJECT AND THE ESTIMATED PROJECT COMPLETION DATE; ACCEPTING A NOTE PURCHASE AGREEMENT FOR PURCHASE OF THE BONDS, AT PRIVATE SALE BY NEGOTIATION; SETTING FORTH THE AUTHORIZED TERMS AND SUBSTANTIAL FORM OF SUCH BONDS AND AUTHORIZING OFFICERS OF THE BOROUGH TO APPROVE OTHER, FINAL TERMS OF SUCH BONDS; AUTHORIZING EXECUTION AND AUTHENTICATION OF SUCH BONDS; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE

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BOROUGH IN SUPPORT OF SUCH BONDS; APPOINTING A PAYING AGENT AND A SINKING FUND DEPOSITARY; SETTING FORTH CERTAIN COVENANTS AND REPRESENTATIONS RELATING TO THE FEDERAL INCOME TAX STATUS OF THE INTEREST TO BE PAID ON SUCH BONDS; PROVIDING, AS APPLICABLE, FOR DESIGNATION OF THE BONDS AS TAX-EXEMPT OBLIGATIONS FOR THE PURPOSES OF SECTION 265(b)(3)(B) OF THE INTERNAL REVENUE CODE OF 1986; AUTHORIZING APPROPRIATE OFFICERS OF THE BOROUGH TO TAKE CERTAIN ACTIONS AND TO EXECUTE CERTAIN DOCUMENTS IN CONNECTION WITH ISSUANCE OF SUCH BONDS; PROVIDING FOR THE REDEMPTION OF THE NOTES TO BE REFUNDED, UPON OPTIONAL REDEMPTION PRIOR TO STATED MATURITY; AUTHORIZING EXECUTION AND DELIVERY OF NOTE REDEMPTION AGREEMENTS WITH RESPECT TO THE REDEMPTION OF THE NOTES TO BE REFUNDED; AUTHORIZING RELATED ACTION; AND REPEALING ALL ORDINANCES OR PARTS OF THE ORDINANCES INsofar AS THE SAME SHALL BE INCONSISTENT HEREWITH.

Passed by unanimous vote.

Under Borough Planning Commission, there was nothing to report.

Under Environmental Advisory Commission, there was nothing to report.

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

- Review and accept the Minutes of the October 15, 2019 Borough Council meeting.
- Review and accept the Borough Community Development Report for October, 2019.
- 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 October 12, 2019, through November 15, 2019, as summarized below:

General Fund	\$156,330.95
Refuse and Recycling Fund	\$40,153.31
Water Fund	\$52,069.91
Electric Fund	\$371,508.43
Sewer Fund	\$54,618.86
Telecommunications Fund	\$179,628.84

Passed by unanimous vote.

Under Community Development and Public Safety Committee, the Monthly Police Report for October, 2019 was submitted.

The following fines were collected:

District Justice Greth	September, 2019	\$5,401.76
Clerk of Common Pleas	September, 2019	\$57.33
Secretary's Office	October, 2019	\$5,825.00

Mr. Piscitelli noted that the Community Development and Public Safety Committee supports and endorses Zoning Appeal Z-19-03, regarding 126 W. Main Street, consisting of a change of use from barbershop to restaurant.

A motion was made by Mr. Piscitelli, seconded by Ms. Elliott, Resolved, To change the charge on the parking kiosks to give the first hour of parking for free. 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 Mason Stillo to add two “buddy benches” and an information kiosk, in the park for his Eagle Scout project, and to waive the associated permit and inspection fees. Passed by unanimous vote.

A motion was made by Mr. Piscitelli, seconded by Mr. Seyler, Resolved, To approve the request from Keith Wuchter to rent the Scooter Building, on July 25, 2020, from 11:00 a.m. to 6:00 p.m. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Piscitelli, Resolved, To approve the request from the Kutztown Optimist Club to hold the Fools’ Run, on March 28, 2020, from 8:30 a.m. to 12 noon. Passed by unanimous vote.

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A motion was made by Mr. Piscitelli, seconded by Mr. Diehm, Resolved, To approve the Allentown and Auburn Railroad's 2020 train ride schedule. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Piscitelli, Resolved, To approve the purchase of the lighting materials that will be installed by the Borough, at the Pickle Ball Court, in the amount of \$1,219.00. Passed by unanimous vote.

A motion was made by Mr. Piscitelli, seconded by Mr. Seyler, Resolved, To enter into an agreement with the Delaware County Solid Waste Authority for refuse disposal. Passed by unanimous vote.

A motion was made by Mr. Piscitelli, seconded by Mr. Seyler, Resolved, To enter into an agreement with the Kutztown Area School District to provide salt for the 2019-2020 winter season. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Piscitelli, Resolved, To purchase and install a convex mirror at Sander Alley and Noble Street. Passed by unanimous vote.

A motion was made by Mr. Piscitelli, seconded by Mr. Seyler, Resolved, To introduce and authorize advertisement of the proposed Resolution amending refuse rates. Passed by unanimous vote.

Mr. Khalife noted that the refuse rates are increasing by 10%, although the senior citizen rate is less.

A motion was made by Mr. Piscitelli, seconded by Mr. Seyler, Resolved, To

approve the request from residents of North Baldy Alley to have the Borough vacate a section of a "paper alley" and to consolidate their respective deeds, at the residents' expense, once vacated and accepted. Passed by unanimous vote.

Under Personnel Committee, a motion was made by Mr. Diehm, seconded by Ms. Elliott, Resolved, To approve revising the Police Vision Plan by changing it from Option C (24-month plan) to Option F (12-month plan). Passed by unanimous vote.

A motion was made by Mr. Diehm, seconded by Ms. Elliott, Resolved, To reappoint the following individuals as members of the Police Pension Advisory Committee, whose terms shall expire on December 1, 2021: P. Michael Clery, Jeffrey DeTurk and Gabriel Khalife. Passed by unanimous vote.

A motion was made by Mr. Diehm, seconded by Ms. Elliott, Resolved, To reappoint Sheila Fulton, as a member of the Kutztown Municipal Authority, whose term shall expire on December 1, 2024. Passed by unanimous vote.

A motion was made by Mr. Diehm, seconded by Ms. Elliott, Resolved, To reappoint Walter Hess, as a member of the Kutztown Municipal Authority, whose term shall expire on December 1, 2024. Passed by unanimous vote.

A motion was made by Mr. Diehm, seconded by Ms. Elliott, Resolved, To reappoint Keith Wuchter, as a member of the Kutztown Transportation Authority, whose term shall expire on December 1, 2024. Passed by unanimous vote.

A motion was made by Mr. Diehm, seconded by Ms. Elliott, Resolved, To reappoint John Fry, as a member of the Housing License Appeals Board, whose term shall expire on December 1, 2020. Passed by unanimous vote.

A motion was made by Mr. Diehm, seconded by Ms. Elliott, Resolved, To hire

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Ryan Hirsch as a part-time Public Works Laborer at an hourly rate of \$12.00. Passed by unanimous vote.

A motion was made by Mr. Diehm, seconded by Ms. Elliott, Resolved, To hire Matthew Christman as a full-time Refuse Laborer I without CDL. Passed by unanimous vote.

Mr. Khalife noted that Mr. Christman has a CDL, so once he is fully trained, his rate may be increased.

A motion was made by Mr. Diehm, seconded by Ms. Elliott, Resolved, To approve the change of positions, for Elizabeth McKenna, from a Community Service Officer II, to a part-time Community Service Officer. Passed by unanimous vote.

Off of the agenda, a motion was made by Mr. Diehm, seconded by Ms. Elliott, Resolved, To remove the probation period for Elizabeth McKenna. Passed by unanimous vote.

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

Under Finance and Electric Committee, Mr. Khalife introduced and reviewed the proposed budget for 2019.

A motion was made by Mr. Derek, seconded by Mr. Seyler, Resolved, To authorize advertisement that the proposed budget for 2020 is available for public inspection. Passed by unanimous vote.

A motion was made by Mr. Derek, seconded by Mr. Seyler, Resolved, To introduce and authorize advertisement of the proposed Ordinance to adopt the 2020 real estate tax rates. 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 enter into agreement with Pennsylvania Water Specialties Company, regarding a Cross Connection Control Program, and to forward the agreement to the Borough Solicitor for review. Passed by unanimous vote.

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

RESOLUTION NO. 10- 2019

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, REQUESTING A PA SMALL WATER AND SEWER PROGRAM GRANT OF \$379,660.00, FROM THE COMMONWEALTH FINANCING AUTHORITY, TO BE USED FOR THE SOLIDS HANDLING IMPROVEMENTS PROJECT AT THE WASTEWATER TREATMENT PLANT.

WHEREAS, the Borough of Kutztown (Applicant) of Berks County hereby requests a PA Small Water and Sewer Program grant of \$379,660.00, from the Commonwealth Financing Authority, to be used for the Solids Handling Improvements Project at the Wastewater Treatment Plant.

BE IT RESOLVED, that the Applicant does hereby designate Kutztown Borough Council President Kevin J. Snyder, and Borough Manager Gabriel Khalife, as the officials 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.

BE IT FURTHER RESOLVED, that this Resolution shall become effective on November 19, 2019.

DULY ADOPTED AS A RESOLUTION this 19th day of November, 2019, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in a lawful session duly assembled.

Passed by unanimous vote.

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A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To authorize HRG to prepare a funding assistance application, for to the Commonwealth Finance Authority PA Small Water and Sewer Program, for installation of a new Solids Dewatering Press at the Wastewater Treatment Plant. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To introduce and authorize advertisement of the proposed Resolution amending water rates. Passed by unanimous vote.

Mr. Mace noted that the water rate increase is 5%.

A motion was made by Mr. Seyler, seconded by Mr. Mace, Resolved, To introduce and authorize advertisement of the proposed Resolution amending sewer rates. Passed by unanimous vote.

Mr. Mace noted that the sewer rate increase is 5%.

Mr. Seyler noted that beginning January 1, 2020, the water and sewer rates will each include a monthly \$2.00 per meter charge for an Infrastructure Improvements Fund.

Under Miscellaneous, President Snyder called for an Executive Session at 9:27 p.m. to discuss personnel and legal matters. The Executive Session ended and the meeting reconvened at 10:01 p.m. No action was taken.

Mr. Mace noted that he was not at the last Council meeting, when the Fairgrounds monster truck event was discussed, and he is against calling it an event and not a race.

A motion was made by Mr. Mace, seconded by Mr. Piscitelli, Resolved, To adjourn the Council meeting upon vote. Passed by unanimous vote. The meeting ended at 10:04 p.m.

Prepared and Attested by: Gina M. Wiand
Borough Secretary

Kevin Snyder and Andrea Rahn hereby ordered payment of the expenditures listed in the Accounts Payable G/L Distribution Report, including payment dates from October 12, 2019, through November 15, 2019, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

Kevin J. Snyder

Gina M. Wiand