

February 20, 2007  
Kutztown, PA

The regular meeting of the Kutztown Borough Council was called to order at 7:30 p.m. in the Kutztown Municipal Building by President Malcolm A. Eidle, with other members present: Mr. Edwin Seyler, Mr. Brendan Strasser, Mr. James Schlegel, Mr. Mark Gangewere, Mr. Kevin Snyder, Student Ambassadors Carmen Bloom and Steven Kenney and Mayor Sandy Green. Mr. Keith Mooney, representing the Borough Solicitor; Mr. Jaymes A. Vettraino, Borough Manager/Treasurer; Mr. Richard Celmer, representing the Borough's planning and water/wastewater engineering firm of Spotts, Stevens, & McCoy, Inc.; Mr. Bruce Follweiler, Superintendent of Electric and Telecom; Mr. Theodore R. Cole, Chief of Police; Mr. Richard J. Diehm, Director of Planning and Zoning; Mr. Frank P. Caruso, Director of Information Technologies; Bonnie Bray, Borough Secretary/Human Resources Director; Mr. Joseph Rudolf, representing the Borough's labor counsel with the law firm of Reed, Smith, Shaw and McClay; Mr. Robert Watrous, Director of Judicial Affairs at Kutztown University; Borough residents Jan Crooker, Charles Gundrum, Greg and Ben Rarick, Jay Druckenmiller, and Marge Hassler; Kutztown University students Danielle Broadbelt, Laura Verdant, Tara Beretsky, Lindsay Chamberlain, Greg Lane, and Kaitlyn Searf; Steve Hoog and Peter Crownfield, representing the Alliance for Sustainable Communities of LV; Troy Arndt, Stu Stump, and David J. Reimer, Sr., representing the Kutztown Fire Company; and Carl Lobb of Kutztown were also present.

Fire Chief Troy Arndt, presented the Kutztown Fire Company Annual Report for 2006 to Council. He pointed out that the fire company responded to 426 emergency calls

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in 2006, an increase of 13 calls over 2005. He further indicated that membership has increased to 50, an increase of five firefighters. He was very proud of his department's efforts towards fire prevention in schools and nursing homes. He talked about the engine room expansion project and the purchase of a 1998 fire truck for \$260,000. A committee has been formed to explore grant opportunities. Chief Arndt reported that the department just received a grant for \$47,000, which was used for equipment. Mr. Snyder asked the Chief what caused the increase in calls over last year. Chief Arndt responded that the increase was attributed to the University, alarms and vehicle accidents. Mr. Snyder and Mr. Eidle commended the fire department for their service to the community. Chief Arndt praised the fire department volunteers for their efforts and credited Dave Reimer for the professional format of the annual report. Finally, the Chief advised Council that the department is planning a 100-year celebration next year, including a parade. He will keep Council informed as plans develop for the celebration.

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

Mrs. Crooker of 463 West Main Street appealed to Council to take a good look at the proposed Maxatawny Township subdivision project at the end of the 222 bypass. She was concerned that the citizens of Kutztown will pay for this in terms of traffic jams and deterioration of the downtown area.

Mr. Milton Kern expressed his admiration for the fire department volunteers and asked people to dig into their pockets to support the department in a realistic way. He reminded everyone how valuable the department is.

Tara Beretsky and Lindsay Chamberlain, Interns representing the Alliance for Sustainable Communities ó Lehigh Valley, addressed Council regarding global warming. The Interns asked the Borough to consider signing the U. S. Mayors Climate Protection Agreement. It was their contention that recycling efforts could be strengthened or better enforced in the Borough with the signing of this Agreement. The Interns asked Council and the Mayor for their support and enthusiasm for protecting the environment for future generations.

Jeri Carroll-Colicchio of 25 S. Elm Street complained about the snow removal after the February 14, 2007 storm, in particular at the Turkey Hill intersection of Main Street and Constitution Boulevard and at the intersection of South Elm Street and Main Street. Mr. Vettraino responded that he will be giving a brief presentation at tonight's meeting regarding the snow removal process for the Borough and further commented that the Borough will look at the particular areas cited by Ms. Carroll-Colicchio.

Chuck Gundrum of 308 W. Main Street, Apartment B, a Kutztown University student, complained about the refuse fee. He objected to being charged the same fee regardless of the amount of garbage produced. Mr. Vettraino pointed out that if a family of six produces more refuse than permitted by the flat fee (three bags), the family is charged an additional fee based on the number of bags over three. Mr. Eidle pointed out that the Borough had thoroughly investigated the "paying by bag" fee structure, but that it basically failed because of the students throwing their garbage into neighbors' yards.

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

- Review and accept the Minutes of the January 16, 2007, Council Meeting as amended by Mr. Gangewere and the February 3, 2007 Workshop meeting.

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- Review and accept the Borough Community Development and Public Safety Report for January, 2007.
- Review and accept the Zoning Hearing Board 2006 Summary of Appeals.
- Waive all permit and tapping fees relating to the improvements of the Kutztown Train Station.
- Waive all permit and inspection fees, estimated at \$1,600 - \$1,800, for an upcoming expansion project at the Kutztown Fire Company.
- Ratify the execution of an annual maintenance agreement with ES2 Environmental Systems and Equipment Service, for maintenance at the WWTP, in the amount of \$6,000.00.
- Authorize the Water and Wastewater Superintendent to prepare the bid specifications for the replacement of the Bio Tower Distributor Arms.
- Authorize the Water and Wastewater Superintendent to prepare the bid specifications for the draining, cleaning, inspection and repairs for the Anaerobic Digester.
- Donate two Borough family pool passes for the 2007 Friend, Inc., Community Services Benefit Auction held on May 5, 2007.
- Authorize the appropriate Borough officials to execute the Color Hybrid Maintenance Contracts with Konica Minolta for the copiers located in the Administration office and in the Public Works office, at an annual combined cost of \$1,320.00.
- Ratify the hiring of Beth J. Reichart as a temporary part-time clerk at an hourly rate of \$12.50, to work in the Police Department for one year, four hours per day, four days per week, effective January 31, 2007.
- Ratify the probationary employment of Daniel Batz as a Master Technician, effective February 19, 2007.
- Approve the amended CSO and CSO II position descriptions.
- Approve the amended Refuse Laborer I, Refuse Laborer I/With CDL Class B License, and Refuse Laborer II position descriptions.
- Authorize the advertisement and hiring of an additional refuse laborer.
- Accept the resignation of Gregory W. Heid, CSO II, effective upon the acceptance of Borough Council.

- Compensate Kim Davis \$100.00 to cover the appearance fee for attending the February and March Borough Planning Commission meetings to assist the new recording secretary during the transition period.
- 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 January 13, 2007 to February 16, 2007, as summarized below:

General Fund	\$164,918.51
Refuse and Recycling Fund	\$41,649.24
Water Fund	\$54,994.14
Electric Fund	\$470,107.18
Sewer Fund	\$49,733.71
Telecommunications Fund	\$75,087.02

Passed by unanimous vote.

Under Borough Planning Commission, Mr. Kern reported on Zoning Appeal No. Z-07-01, regarding David W. Price's appeal for 582 College Garden Drive. The Planning Commission recommended that the requested variance be approved. No action was taken by Council.

Mr. Kern informed Council that the Kutztown Development Group is exploring a planning proposal for an apartment building at 82-92 Bieber Alley. The planning commission posed about 30 questions for the Group to address. If interested, the Group will need to address these questions before moving forward.

A motion was made by Mr. Strasser, seconded by Mr. Gangewere, Resolved, To ratify the appointment of Jill Remick as Recording Secretary, effective February 12, 2007. Passed by unanimous vote.

Under Community Development and Public Safety Committee, a motion was made by Mr. Strasser, seconded by Mr. Schlegel, Resolved, To pay for one quarter of the

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\$1,250.00 professional fee to cover Thomas Hylton's visit on Monday, March 26, 2007.

Passed by unanimous vote.

A motion was made by Mr. Strasser, seconded by Mr. Snyder, Resolved, To provide a \$250.00 sponsorship for the Berks County Solid Waste Authority's Household Hazardous Waste collection events on April 14, 2007 at the Exeter Township Municipal Building and on October 13, 2007, at the FirstEnergy Stadium from 8:00 a.m. to 2:00 p.m. Passed by unanimous vote.

Under Police Committee, Mayor Green submitted the Police Report for the month of January, 2007, copies of which were given to Council. She reported the following fines were collected:

District Justice Greth	December, 2006	\$12,997.93
Clerk of Common Pleas	December, 2006	\$94.35
Secretary's Office	January, 2007	\$3,240.00

A motion was made by Mr. Strasser, seconded by Mr. Snyder, Resolved, To authorize Mayor Green to sign and submit a Letter of Intent to the Governor's Center of Local Government Services requesting technical assistance to perform a study of the operation of the Kutztown Police Department. Passed by unanimous vote.

Under Public Works Committee, Mr. Vettraino reviewed the Borough's snow emergency procedures. He explained how and when snow emergencies are designated. He showed how the policies and guidelines of the Snow Plowing Program were followed during the February 13-14, 2007 snowstorm and during the February 15-21, 2007 clean-up process.

Off of the agenda, Mr. Eidle requested an Executive Session to be held at the end of the meeting to discuss a real estate matter.

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

RESOLUTION NO. 5-2007

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA AMENDING CHAPTER A231 OF THE CODE OF THE BOROUGH OF KUTZTOWN SO AS TO AMEND THE SOLID WASTE DISPOSAL FEE STRUCTURE.

WHEREAS, the Council of the Borough of Kutztown from time to time adopts resolutions establishing the rates to be charged regarding solid waste disposal service furnished to consumers, by authority of the duly enacted ordinances of the Borough of Kutztown, Berks County, Pennsylvania; and

WHEREAS, Section 185-7 of Chapter 185 of the Code of the Borough of Kutztown sets forth that the fees for the availability and use of the Borough's collection and disposal service for refuse shall be provided for from time to time by resolution of Council; and

WHEREAS, Section A231-1.13 of Chapter A231 of the Code of the Borough of Kutztown sets forth the solid waste collection and disposal fee structure; and

WHEREAS, the Council of the Borough of Kutztown desires, by this Resolution, to amend said solid waste collection and disposal fee structure.

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 Section A231-1.13A.(2) of Chapter A231 of the Code of the Borough of Kutztown be, and it is hereby, amended in its entirety so as to read:

- (2) Notwithstanding the provisions above, if the account holder of any dwelling unit ó account holder shall be defined as the person on record with the Borough of Kutztown responsible for payment of an electric account ó or the spouse of said account holder is 62 years of age or older, per month per such dwelling unit: \$15.00.

BE IT FURTHER RESOLVED, that any and all resolutions and parts of resolutions inconsistent with this Resolution are hereby retroactively superseded and that

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this Resolution shall remain in effect until superseded by a duly adopted Resolution of the Council of the Borough of Kutztown.

DULY ADOPTED AS A RESOLUTION this 20<sup>th</sup> day of February, 2007, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled.

Passed by unanimous vote.

A motion was made by Mr. Snyder, seconded by Mr. Schlegel, Resolved, To authorize the execution of a Letter of Agreement with the County of Berks for a recreation grant to develop a multipurpose rink in the Kutztown Park. Passed by unanimous vote.

Mr. Snyder noted that action will be taken on the Requests for Proposals for a one-time contract to perform professional services work in the preparation of a Master Site Park Plan at the March 20, 2007 Council meeting. Mr. Vettraino indicated that 12 proposals were received.

Off the agenda, Mr. Eidle asked Council to consider a request from the Boy Scouts to clean up the area along Sacony Creek next to Constitution Drive. A motion was made by Mr. Snyder, seconded by Mr. Gangewere, Resolved, To approve the request of the Boy Scouts to clean up the area along Sacony Creek next to Constitution Drive. Passed by unanimous vote.

Under Personnel Committee, Mr. Seyler requested that the Executive Session to discuss a nonuniformed personnel matter be tabled until the end of the meeting.

A motion was made by Mr. Seyler, seconded by Mr. Strasser, Resolved, To accept the resignation of Patrol Officer James Elo with regret, effective February 18, 2007. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Strasser, Resolved, To adopt the proposed revised Workers Compensation Provider Panel. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Snyder, Resolved, To authorize the appropriate Borough official to execute the Group Insurance Amendment with Standard Insurance to rescind the insurance reduction due to age requirement. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Gangewere, Resolved, To authorize the appropriate Borough official to execute the Group Insurance Amendment to increase the life insurance benefit for nonuniformed and uniformed salaried employees, excluding the Borough Manager. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To adopt the proposed Nepotism Policy. Passed by unanimous vote.

Under Electric and Telecom Committee, a motion was made by Mr. Gangewere, seconded by Mr. Snyder, Resolved, To introduce and authorize advertisement of the proposed Resolution to correct the RH electric service rate. Passed by unanimous vote.

Under Water and Wastewater Committee, a motion was made by Mr. Schlegel, seconded by Mr. Gangewere, Resolved, To award the sludge hauling bid to Potty Queen, Pottstown, PA. Passed by unanimous vote.

Under Finance and Technology Committee, Mr. Eidle had nothing to report.

Under Miscellaneous, a motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To adopt the following Resolution:

## RESOLUTION NO. 6-2007

THIS RESOLUTION, approved and adopted by Council of the Borough of Kutztown, Berks County, Pennsylvania, on the date hereinafter set forth.

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WITNESSETH:

WHEREAS, Federal and state laws mandate that a government follow the next higher level of government's Emergency Operations Plan (EOP) format; and

WHEREAS, in response to the mandate stated above, the Chief Counsel of the Pennsylvania Emergency Management Agency has approved a model EOP to provide prompt and effective emergency response procedures to be followed in the event of a major emergency or disaster; and

WHEREAS, the Borough of Kutztown adopted this new model EOP on June 3, 2003;

WHEREAS, it was mandatory for all municipalities to repromulgate the EOP in 2005; and

WHEREAS, Pennsylvania Emergency Management Agency (PEMA) mandates, as specified in Emergency Management Directive No. D2002-5, that whenever, due to election turnover or resignation, a majority of the municipality's elected body consists of new members who did not review and approve the promulgation of the current municipal EOP, the municipality must repromulgate the EOP.

NOW, THEREFORE BE IT RESOLVED, That the Council of the Borough of Kutztown, Berks County, Pennsylvania, does hereby repromulgate the Emergency Operations Plan (EOP) as approved by the Chief Counsel of the Pennsylvania Emergency Management Agency and as adopted by the Council of the Borough of Kutztown on June 3, 2003, and as repromulgated January 18, 2005.

RESOLVED as a resolution this 20<sup>th</sup> day of February, 2007.

Passed by unanimous vote.

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

## **RESOLUTION NO. 7-2007**

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, TO AUTHORIZE THE DISPOSITION OF CERTAIN NON-PERMANENT RECORDS, IN ACCORDANCE WITH RESOLUTION NO. 8-2004 ADOPTED MARCH 16, 2004 BY THE COUNCIL OF THE BOROUGH OF KUTZTOWN,

THE MUNICIPAL RECORDS MANUAL APPROVED ON  
JULY 16, 1993, AND ACT 428 OF 1968.

WHEREAS, by virtue of Resolution No. 8-2004, adopted March 16, 2004, the Borough of Kutztown declared its intent to follow the schedules and procedures for the disposition of records as set forth in the Municipal Records Manual approved on July 16, 1993, and

WHEREAS, in accordance with Act 428 of 1968, each individual act of disposition shall be approved by Resolution of the governing body of the municipality.

NOW, THEREFORE, BE IT RESOLVED, That the Council of the Borough of Kutztown, Berks County, Pennsylvania, in accordance with the above-cited Municipal Records Manual, hereby authorizes the disposition of the following public records:

1. Obsolete Certification, Application and Contract for Electric Service, except for those obsolete contracts executed during the two-year period determined on a rolling basis counting backwards from the present time;
2. The Statements of Financial Interest dated beyond the five-year retention period requirement;
3. Applications for swimming pool passes beyond the three-year period determined on a rolling basis counting backwards from the present time;
4. Settlement certifications to title companies beyond the three-year period determined on a rolling basis counting backwards from the present time; and
5. Peddling, canvassing and soliciting permits from 1988 through 1995.

DULY ADOPTED AS A RESOLUTION this 20<sup>th</sup> day of February, 2007, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in a lawful session duly assembled.

Passed by unanimous vote.

President Eidle called for an Executive Session at 8:52 p.m. to discuss a real estate matter, a uniformed personnel matter and a nonuniformed personnel matter. The Executive Session ended, and the meeting reconvened at 11:35 p.m.

A motion was made by Mr. Schlegel, seconded by Mr. Snyder, Resolved, To authorize the legal work and engineering necessary to have a minor transfer of land between the Kutztown Rod and Gun Club and the Borough of Kutztown for the North Park land, And Be It Further Resolved, To authorize payment of the transfer tax

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associated with the project. Passed by unanimous vote.

A motion was made by Mr. Gangewere, seconded by Mr. Seyler, Resolved, To uphold the Borough Manager's suspension without pay of David Snyder for the period from February 13, 2007 through February 20, 2007; And Be It Further Resolved, To terminate employment of David Snyder, as detailed in the Employee Action Record dated February 13, 2007, based on the results of the personnel investigation. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Strasser, Resolved, To direct the Police Chief to take all necessary steps to return William Wyandt to full duty as a patrol officer in accordance with the Arbitration Award dated February 14, 2007. Passed by unanimous vote.

There being no further business, a motion was made by Mr. Schlegel, seconded by Mr. Gangewere, Resolved, To adjourn the meeting at 11:40 p.m. Passed by unanimous vote.

Prepared and  
Attested by: Bonnie Bray  
Secretary

Malcolm Eidle and Bonnie Bray hereby ordered payment of the expenditures listed in the Accounts Payable G/L Distribution Report, including payment dates from January 13, 2007 to February 16, 2007, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

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Malcolm A. Eidle

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Bonnie Bray