

February 26, 2008
Kutztown, PA

A special meeting of the Kutztown Borough Council was called to order at 6:00 p.m. in the Kutztown Municipal Building by President Malcolm A. Eidle, with other members present: Mr. Edwin Seyler, Mr. James Schlegel, Mr. Mark Gangewere, Mr. Kevin Snyder, Student Ambassador Carmen Bloom and Mayor Sandy Green. Council member Brendan Strasser was absent. Mr. Keith Mooney, representing the Borough Solicitor; Mr. Jaymes A. Vettraino, Borough Manager/Treasurer; Mr. Theodore R. Cole, Chief of Police; Mr. Richard J. Diehm, Director of Planning and Zoning; Ms. Rachael Birckbichler, Community Development Director; Mr. Frank P. Caruso, Director of Information Technologies; Bonnie Bray, Borough Secretary/Human Relations Director; Mr. Joe Piscitelli, representing KUBOK; residents William Hopkins, Lisa Ladd-Kidder, Kenneth Kern, Martin Smith, and Craig Koller; Michael Coe of Kutztown University; and Michelle Park, reporter for the Reading Eagle were also present.

President Eidle asked if there was anyone who wished to address Council before proceeding with the agenda, and there was no response.

Under Community Development and Public Safety Committee, Mr. Mooney read the caption of the proposed Ordinance amending Chapter 200 of the Kutztown Code so as to add Article VIII, entitled "Residential Rental Tax." A motion was made by Mr. Schlegel, seconded by Mr. Seyler, Resolved, To enact the following Ordinance:

ORDINANCE NO. 3-2008

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF KUTZTOWN BY CREATING AND ADOPTING ARTICLE VIII OF CHAPTER 200 OF THE CODE OF THE BOROUGH

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OF KUTZTOWN, TO BE FOUND AT SECTIONS 200-60 TO 200-68 OF THE CODE OF THE BOROUGH OF KUTZTOWN, ENTITLED "RESIDENTIAL RENTAL TAX" WHICH SHALL IMPOSE A TAX ON THE TRANSACTION OF ENTERING INTO A LEASE FOR RESIDENTIAL PROPERTY; ESTABLISHING THE RATE OF SUCH TAX; PROVIDING PROCEDURES FOR THE ADMINISTRATION AND COLLECTION OF THE TAX; AND PROVIDING PENALTIES FOR VIOLATIONS.

Mr. Vettraino reviewed his notes taken from a meeting held last week with a number of landlords with regard to the proposed Residential Rental Tax Ordinance. He clarified that the proposed tax would be established now but not administered until next year. He encouraged the Community Development Committee to review the comments from the landlord meeting to determine if any changes need to be incorporated in the ordinance. Responding to additional questions and comments from Craig Koller and William Hopkins, Mr. Vettraino explained that the tax is an annual flat tax in the amount of \$30.00 for residential leases, that the tax will be self-reporting, and that the revenues from the tax will be applied to the General Fund. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Mr. Gangewere, Resolved, To accept the Borough of Kutztown Zoning Hearing Board 2007 Summary of Appeals. Passed by unanimous vote.

Under Personnel Committee, a motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To accept, with regret, the letter of resignation from Ashley L. Borman, Community Service Officer, whose resignation is effective February 29, 2008. Passed by unanimous vote.

Under Finance, Electric and Telecommunications Committee, a lengthy discussion ensued with regard to the status of Ordinance No. 2-2008 approving the General Obligation Note, Series of 2008, in the principal amount of \$1,300,000 to

provide funds for capital improvements and related studies for the Borough's Telecommunications utility. Mayor Green announced her intention to veto Ordinance No. 2-2008 unless the following conditions were met and read the following statement:

"Before Council approves Ordinance No. 2-2008, a business plan is prepared by an objective firm (not Borough staff). This plan needs to show a number of things:

- a) What is the status of our current equipment?
- b) If we upgrade the current equipment, will it be marketable to sell?
- c) Will the Borough of Kutztown be able to stay current with technology?
- d) Who are we going to market to?

At this point, the Borough lacks capital to expand HU beyond the town borders, and given that HU has already achieved a penetration of approximately 46%, which is greater than anticipated, and yet is still not generating enough revenue to offset the current debt service, how likely is it that the market exists for the system to ever become profitable?

If the other method of generating profit is to increase retail prices for cable TV and internet, how high can that increase go without resulting in a loss of existing customer base? How much are existing customers willing to pay for the convenience of a locally owned utility?

If we give up on the expectation that HU will ever generate enough revenue to repay the debt service, how else are we prepared to subsidize it if electric revenue can no longer make up the difference? Will the Borough consider a utility tax to subsidize HU operations? Instead of generating utility revenues to keep taxes

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low, the Borough will then be in a position of generating new taxes to subsidize its utility operations.

There needs to be a plan. Let me give you an example.

Consider all the levels of accountability that is needed every time money is received from the Commonwealth. The Pedestrian Friendly Street Lights and the Train Station renovations, both funded by PennDOT grants. Every time the Borough receives money from the Commonwealth, it has to prove how the money is spent. PENNDOT requires PLANS.

Another example is Kutztown Community Partnership (KCP). KCP is a group of volunteers dedicated to the revitalization and economic development of downtown Kutztown. KCP received a grant from the Department of Community and Economic Development and is not listed as a Main Street Designation. The grant is for \$160,000. Before KCP receives any money, there is a list of work items that need to be complete and submitted. Some of the work items include:

- 1) A Facade Improvement Manual
- 2) An Image Development Report
- 3) A Market Assessment
- 4) The final development of its Five Year Action Strategy
- 5) To complete and implement its Long-Term Fundraising Plan

In addition to answering to DCED, KCP also signed a contract with the Borough of Kutztown to provide a service for economic development, façade improvement, etc.

KCP is accountable to the Department of Community and Economic Development and the Borough of Kutztown. BOTH REQUIRE PLANS!

My recommendation is we need a plan from an outside firm. We need an objective, external analysis rather than hopes, dreams and opinions of council, borough staff and borough employees regarding HU operations. We do not need all the reasons and excuses as to why HU cost so much more to build than originally anticipated and why it continues to cost more in continued upgrades. We need an accurate analysis of its operations in the present and a plausible prediction for its future. The findings of the HU analysis should be presented at a special town meeting."

Before considering the following two motions to establish the conditions as prescribed by the Mayor, Mr. Vettrano fielded additional questions from Ms. Ladd-Kidder, Diane Piscitelli and William Hopkins with regard to the continued process once the Mayor approves the ordinance. Mr. Caruso and Mr. Eidle urged Council to move forward and to make funds available to perform the study and continue with the project.

In conjunction with Ordinance No. 2-2008, whereby the Borough has authorized a debt to be incurred of up to \$1.3 million dollars for the telecommunications system, a motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, That approximately \$300,000 of the debt is to be used in 2008 for study and current capital needs, as detailed in the 2008 Borough of Kutztown budget; And Further Resolved, That the Borough is authorizing spending these funds as soon as they become available; And Also Resolved, That approximately \$1,000,000 of the debt is to be used beyond 2008 for upgrading the telecommunication system; And Be It Also Resolved, That the Borough

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shall not spend any part of the \$1,000,000 for the beyond-2008 upgrade of the telecommunication system until a plan is prepared and presented to the elected officials, staff and the public by an outside professional consultant; And Be It Further Resolved, That after the presentation by said consultant, the Borough Council shall consider the adoption of a Resolution authorizing expending of the \$1,000,000; And Be It Also Resolved, That the Council, Mayor and Borough Solicitor are in agreement that said Resolution is legislative in nature and as such shall be presented to the Mayor for signature. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Gangewere, Resolved, To authorize and direct the Borough Manager and staff to retain a professional telecommunications consultant. Said consultant shall review the status of the Borough's current equipment; the necessity of upgrade; the need of future upgrade due to technology changes or other uncontrollable events; the projected timeline for the system to reach full breakeven; the projected future investment needed prior to the system reaching full breakeven; the value and marketability of the telecommunication system; and any additional matters that may be determined by the Borough appropriate for study. Once concluded, the consultant shall present their findings to the elected officials, staff and at a public meeting, with a specific period of time reserved for public comment. Passed by unanimous vote.

Mr. Vettrano advised that he received a letter from Councilman Strasser on February 20, 2008, notifying the Borough of his resignation from Council. Mr. Hopkins strongly urged Council not to accept Mr. Strasser's resignation. Mayor Green agreed with Mr. Hopkins, further commenting that the Borough is losing someone important. A

motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To table any action with regard to Councilman Strasser's resignation letter until the next Council meeting. Passed by unanimous vote.

A motion was made by Mr. Gangewere, seconded by Mr. Seyler, Resolved, To adjourn meeting at 7:15 p.m. Passed by unanimous vote.

Prepared and
Attested by: Bonnie Bray
Secretary