

March 18, 2008
Kutztown, PA

A regular meeting of the Kutztown Borough Council was called to order at 7:30 p.m. in the Kutztown Municipal Building by the President, Mr. Malcolm A. Eidle, with other members of Borough Council present: Mr. Edwin K. Seyler, Mr. James F. Schlegel, Mr. Mark R. Gangewere, Mr. Kevin J. Snyder and the Mayor, Ms. Sandra Green. Councilman Brendan D. Strasser was not present. Mr. Keith Mooney, Borough Solicitor; Mr. Richard F. Celmer, representing the Borough's planning and water/wastewater engineering firm of Spotts, Stevens, & McCoy, Inc.; Mr. Jaymes Vettrano, Borough Manager/Treasurer; Mr. Theodore R. Cole, Chief of Police; Mr. Richard J. Diehm, Director of Planning and Zoning; Mrs. Gina M. Wiand, Director of Marketing Communications and Customer Relations/Assistant Borough Secretary; Mr. Frank Caruso, Director of Information Technology; Mr. Russell Samilo, Director of Finance/Assistant Treasurer; Ms. Carmen Bloom, Student Ambassador to Council; Mr. Stephen Kenney, Student Ambassador to the Mayor; residents J. Richard Wagner, Amy Bray, Jean Wagner, Florita Hobaugh, Bob Hobaugh, Stephen Hobaugh, Joe Quinlan, Filbert A. Grim, Jr., Kenneth Kern; and Ms. Lisa Mitchell, reporter for The Kutztown Area Patriot were also present.

Deputy Fire Chief Mike Reitnour presented the Kutztown Fire Company Annual Report for 2007 to Council. He pointed out that the fire company responded to 465 emergency calls in 2007, an increase of 39 calls over 2006. He reported on statistics such as the number of emergency responses per month, day of the week and time of the day. He also provided data regarding emergency responses by municipality, response

percentage by municipality, types of emergency incidents, total hours of service, average firefighter per call and major accomplishments of the Fire Company.

The Kutztown Fire Company will celebrate 100 years of service on May 31, 2008, with special activities and a parade.

President Eidle thanked Mr. Reitnour for the report and said that the Borough appreciates the Fire Company's hard work.

President Eidle acknowledged the passing away of William Yurvati, who served as Assistant Secretary on the Kutztown Transportation Authority, as well as Corresponding Secretary of the Louisa Gonser Community Library Board of Directors; and he expressed the Borough's deepest sympathy to his family and friends.

Mr. Eidle also expressed that the Borough's thoughts and prayers are with Community Service Officer Calvin Hoch, who was recently injured.

Council received a presentation from Stephen Hobaugh, who recently completed his Eagle Scout project. Mr. Hobaugh explained that he placed benches and planted natural species around the Sacony Trail. He was also responsible for a fundraiser, which benefited the Maiden creek Watershed Association.

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

Dick Wagner commented that Kutztown has accomplished many wonderful things, including the Hometown Utilicom telecommunications system, but he is afraid that the Borough is becoming "a house divided" because of the subject. He spoke in favor of Hometown Utilicom and stated that municipalities that do not offer their own services are subject to "higher taxes and inferior services."

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A motion was made by Mr. Schlegel, seconded by Mr. Seyler, Resolved, To approve the following Consent Agenda:

- Review and accept the Minutes of the February 19 and February 26, 2008, Council Meetings.
- Review and accept the Borough Community Development Department Reports for January and February, 2008.
- Review and accept the 2007 Annual Report for the Community Development Department.
- Donate two Borough family pool passes for the 2008 Friend, Inc., Community Services Benefit Auction to be held on April 26, 2008.
- Ratify the Wastewater Treatment Plant agreement with ES2.
- Ratify the write-off of uncollectible miscellaneous receivables from 2006 in the total amount of \$320.74.
- Ratify the execution of an Amendment to extend the deadline to complete the Borough's Keystone Fund Project for the improvement of the Louisa Gosner Community Library.
- Approve the request from the Hoch Balthaser American Legion Post 480 to waive the associated costs of placing barricades for the Memorial Day parade on Monday, May 26, 2008.
- Approve the expenses for any Council Members, the Mayor, and their respective spouses who are interested in attending the 97th Annual PSAB Conference in June, 2008.
- Approve the advertisement and authorize the hiring of lifeguards and swim coaches for the 2008 season.
- Approve the advertisement and authorize the hiring of a Refuse Laborer I or II.
- 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 February 16, 2008, to March 14, 2008, as summarized below:

General Fund	\$ 111,426.17
Refuse and Recycling Fund	\$21,982.18
Fire Protection Tax Fund	\$31.10

Recreation Tax Fund	\$77.78
Road Tax Fund	\$202.22
Water Fund	\$50,883.53
Electric Fund	\$442,387.86
Sewer Fund	\$33,782.11
Telecommunications Fund	\$45,941.65

Passed by unanimous vote.

Under Borough Planning Commission, a motion was made by Mr. Snyder, seconded by Mr. Schlegel, Resolved, To approve the request from Solo Laboratories, Inc., 415 South Laurel Street, with regard to a subdivision modification, based on the sketch plan that was submitted. Passed by unanimous vote.

Under Community Development Committee, a motion was made by Mr. Schlegel, seconded by Mr. Snyder, Resolved, To not renew the Borough's membership in the Northeast Berks Chamber of Commerce for 2008, but instead, maintain contact with the Chamber through the Kutztown Community Partnership, a current Chamber member. Passed by unanimous vote.

Mr. Schlegel noted that a Parade Permit is expected to be approved for the 18th Annual Kutztown Fools Run for April 5, 2008, from 9:00 a.m. to 12 noon.

Off of the agenda, a motion was made by Mr. Schlegel, seconded by Mr. Seyler, Resolved, To appoint Code Appeals Board 1st Alternate Member Melissa Miller to the position of a regular member of the Code Appeals Board. Passed by unanimous vote.

Under Public Safety Committee, Mr. Gangewere reported the following fines were collected:

District Justice Greth	January, 2008	\$13,658.33
Clerk of Common Pleas	January, 2008	\$125.00
Secretary's Office	February, 2008	\$5,255.00

Off of the agenda, a motion was made by Mr. Gangewere, seconded by Mr.

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Schlegel, Resolved, To authorize the appropriate Borough official to execute a letter of support to pledge the Borough's assistance with the Study of Policing in Berks County.

Passed by unanimous vote.

Mr. Gangewere noted that a consultant that is working with the Borough of Kutztown and Kutztown University on a community safety study will be at the Kutztown Municipal Building on March 27, 2008, from 4:00 p.m. to 5:00 p.m. to receive comments and information from residents regarding safety concerns they may have in the community.

Under Public Works Committee, a motion was made by Mr. Snyder, seconded by Mr. Gangewere, Resolved, To approve the request from Kutztown University's OCAC to close the 200 block of Main Street at 12:30 p.m. on April 27, 2008, for an annual block party and to waive the fees associated with supplying the necessary barricades. Mr. Vettraiino commented that the permit fees will be waived. Passed by unanimous vote.

Under Personnel Committee, an Executive Session to discuss a non-uniformed employee matter was deferred until the end of the meeting.

Under Finance, Electric and Telecommunications Committee, a motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To adopt the following Resolution:

RESOLUTION NO. 9-2008

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA AUTHORIZING LEGAL COUNSEL TO EFFECTUATE A SETTLEMENT ON BEHALF OF THE BOROUGH OF KUTZTOWN OF THE CIVIL ACTION ENTITLED BOROUGH OF LANSDALE PENNSYLVANIA, ET AL VS. PP&L

WHEREAS, the Borough of Kutztown is a Plaintiff in the Civil Action entitled Borough of Lansdale, Pennsylvania, et al. vs. PP&L, Inc. et al. (Lansdale), filed in the Federal District Court, Eastern District of Pennsylvania, Case no. 02-8012;

WHEREAS, at a mediation conference held on February 21, 2008, the Court in Lansdale proposed a complete settlement of all issues involved consisting of a total withdrawal of all claims of both Plaintiffs and Defendants and including a termination of the trial for damages claimed by PP&L, et al., the trial being temporarily continued by the Court and to be rescheduled in the event that a settlement is not concluded;

WHEREAS, by Order dated February 21, 2008 the Court has directed that Counsel for Defendants report to the Court and legal counsel for Plaintiffs on or before March 21, 2008 as to whether the Plaintiffs have accepted the subject settlement proposal;

WHEREAS, on February 27, 2008 Plaintiffs' legal counsel held a conference with Plaintiffs' representatives and every Plaintiff represented appeared agreeable to the settlement proposal as recommended by legal counsel for Plaintiffs and as proposed by the Court;

NOW, THEREFORE, the Council of the Borough of Kutztown, Pennsylvania, hereby resolves and adopts as follows:

The settlement proposal as set forth above is hereby approved whereby all claims of both Plaintiffs and Defendants are to be withdrawn and no recovery of damages, fees or costs are to be allowed to any party to the subject civil action as aforesaid; contingent upon the foregoing, legal counsel for Plaintiffs are authorized to withdraw all claims of Plaintiffs and to report this decision to the Court and legal counsel for Defendants on or before March 21, 2008 consistent with the Order of Court dated February 21, 2008; Charles F. Wheatley, Jr. and/or the President of Kutztown Borough Council, if required, are hereby authorized to execute any documents necessary to effectuate the purpose and intent of this Resolution; this Resolution to take effect immediately upon adoption hereof.

IN WITNESS WHEREOF, the Council of the Borough of Kutztown, Pennsylvania, adopts the within Resolution this 18th day of March, 2008.

Passed by unanimous vote.

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

RESOLUTION NO. 10-2008

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AUTHORIZING THE EXECUTION OF AN AGENCY AGREEMENT TO CREATE THE PENNSYLVANIA MUNICIPAL POWER AGENCY, AND APPOINTING REPRESENTATIVES TO THE PENNSYLVANIA MUNICIPAL POWER AGENCY

WHEREAS, the Borough of Kutztown (the "Borough") is a municipal corporation existing under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, Section 47471.2 of The Borough Code (relating to municipal power agencies, 53 P.S. § 47471.2) was enacted by the Pennsylvania General Assembly and signed into law on December 30, 1982, as Act No. 333 of 1982; and

WHEREAS, Section 47471.2(a)(1) of The Borough Code defines a "Municipal power agency" as, "a separate body politic and corporate under the laws of the Commonwealth of Pennsylvania created by agreement between or among two or more boroughs pursuant to this section." (53 P.S. § 47471.2 (a)(1)), and Section 47471.2(b) of The Borough Code provides that, "Any two or more boroughs may form a municipal power agency by the execution of any agency agreement authorized by a resolution of the corporate authorities of each borough." (53 P.S. § 47471.2(b)); and

WHEREAS, the Borough is a participating member of the Pennsylvania Municipal Electric Association (hereinafter referred to as "PMEA"); and

WHEREAS, PMEA has recommended that its Pennsylvania member boroughs create and form a municipal power agency under Section 47471.2 of The Borough Code (53 P.S. § 47471.2), to be known as the Pennsylvania Municipal Power Agency, as an intermunicipality cooperation vehicle and separate body politic and corporate under the laws of the Commonwealth of Pennsylvania, which may potentially provide additional beneficial alternatives for the continued reliable and economic wholesale supply of electricity, and other potential future savings and benefits, for its Pennsylvania member boroughs; and

WHEREAS, the Borough Manager has recommended that the Borough Council approve and authorize participation by the Borough, together with one or more other Pennsylvania borough members of PMEA, in the said creation of the Pennsylvania Municipal Power Agency, by the Borough's execution of an Agency Agreement; and

WHEREAS, the Borough Manager has presented and recommended to the Council a form of the aforesaid Agency Agreement, which has been prepared and recommended by PMEA; and

WHEREAS, the Council finds that such participation by the Borough in the

creation of, and membership in, the Pennsylvania Municipal Power Agency is in the best interests of the citizens of the Borough.

NOW, THEREFORE, BE IT RESOLVED that the Kutztown Borough Council does hereby approve and adopt the following:

1. that the Council of the Borough of Kutztown hereby authorizes the Council President to sign on behalf of the Borough the Agency Agreement to create and form the Pennsylvania Municipal Power Agency, substantially in the form as acceptable to the Borough Solicitor; to file the said Agency Agreement, or cause to be filed, along with a certified copy of this Resolution, with the Corporation Bureau of the Pennsylvania Department of State; and to do or take any other actions as may be necessary, convenient, appropriate or desirable to effectuate or implement the aforesaid creation, formation and organization of the Pennsylvania Municipal Power Agency; and be it further
2. that the Council of the Borough of Kutztown hereby approves the membership of the Borough of Kutztown in the Pennsylvania Municipal Power Agency; and be it further
3. that the Council of the Borough of Kutztown hereby appoints the following persons to act as representatives of the Borough to the Pennsylvania Municipal Power Agency:
 - a. Borough Manager
45 Railroad Street
Kutztown, PA 19530
 - b. Electric/Telecom Superintendent
105 Railroad Street
Kutztown PA 19530

ADOPTED this 18th day of March, 2008.

Mr. Vettraino stated that the agreement with the Pennsylvania Municipal Power Agency, which is approved by this Resolution, will be reviewed and approved by the Borough solicitor prior to signing the agreement. Passed by unanimous vote.

A motion was made by Mr. Gangewere, seconded by Mr. Seyler, Resolved, To approve the request for the Electric/Telecom Superintendent to work with the Borough's Electrical Engineer to prepare bid specifications to replace two 15 KV circuit breakers

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which are located at the 69 KV Substation. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Mr. Snyder, Resolved, To authorize the Borough Solicitor to take collection action on Borough Invoice No. 1415, dated February 21, 2006, in the amount of \$2,946.99. Passed by unanimous vote.

A motion was made by Mr. Seyler seconded by Mr. Gangewere, Resolved, To approve an unbudgeted transfer of funds from the Electric Fund to the Telecom Fund in an amount not to exceed \$50,000 and for this money to be returned to the Electric Fund, once the Telecom Fund receives bank loan proceeds. Passed by unanimous vote.

Under Water and Wastewater Committee, a motion was made by Mr. Schlegel, seconded by Mr. Gangewere, Resolved, To approve the reimbursement request from 543 Luella Drive for repairs made to the sewer lateral in the amount of \$3,208.91. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Mr. Seyler, Resolved, To change the sewer designation for 313 S. Laurel Street from Kutztown Municipal Authority to Borough of Kutztown; and to designate 307, 319, 325 and 331 S. Laurel Street as future customers of the Borough; and to designate 355 and 361 S. Laurel Street as future customers of the Kutztown Municipal Authority. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Mr. Snyder, Resolved, To ratify an Agreement between the Borough of Kutztown and the Farmers to stop all deliveries of sludge to Properties near the Kutztown wells. Passed by unanimous vote.

Under Miscellaneous, a motion was made by Mr. Snyder, Resolved, To reject Councilman Brendan Strasser's resignation. The motion died for lack of a second.

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

accept Councilman Brendan Strasser's resignation with regret. All in favor except for Mr. Snyder who voted nay. There being a majority in favor, the motion passed.

Off of the agenda, a motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To authorize the advertisement for a Council member. Council will accept applications to fill the Council member vacancy in Ward 1 of the Borough until April 7, 2008. Interviews of Council candidates will be conducted at the April 15, 2008 Council meeting. Note: Applicants must be registered electors of Ward 1 in the Borough. Passed by unanimous vote.

President Eidle called for an Executive Session at 8:19 p.m. to discuss a non-uniformed employee matter. The Executive Session ended, and the meeting reconvened at 9:05 p.m.

A motion was made by Mr. Seyler, seconded by Mr. Snyder, Resolved, To reassign Carolann Moody to the position of Police Secretary, effective May 5, 2008, at an hourly rate of \$16.00, contingent upon successful completion of post-offer testing. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To approve the Administrative and Human Resources Coordinator position description and the Payroll Clerk/Administrative Assistant to the Human Resources Director position description to accomplish the restructuring of the Administrative office. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Gangewere, Resolved, To reassign Sharon Gechter to the position of Administrative and Human Resources Coordinator, effective March 19, 2008, at the hourly rate of \$16.46. Passed by

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unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Snyder, Resolved, To authorize advertisement and hiring for a Payroll Clerk/Administrative Assistant to the Human Resources Director, with a pay range of \$15.00 to \$16.00 per hour. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Snyder, Resolved, To accept the resignation of Jaymes Vettrano from his employment with the Borough of Kutztown effective May 9, 2008. Mr. Vettrano will be vacating the positions of Borough Manager/Treasurer, Kutztown Municipal Authority Manager/Assistant Treasurer and Kutztown Transportation Authority Manager/Assistant Treasurer. After Mr. Vettrano read aloud his letter of resignation, President Eidle stated that it was with ñreal, real deep regretö that Council accepts his resignation. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Gangewere, Resolved, To authorize Mr. Eidle and Mr. Seyler to hire an interim Borough Manager. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Snyder, Resolved, To authorize advertisement for a Borough Manager and establish a proposed pay range of \$90,000+ for the Borough Manager position. Passed by unanimous vote.

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

RESOLUTION NO. 11-2008

A RESOLUTION OF THE BOROUGH COUNCIL OF
THE BOROUGH OF KUTZTOWN, COUNTY OF
BERKS, COMMONWEALTH OF PENNSYLVANIA,
AUTHORIZING THE BOROUGH COUNCIL

PRESIDENT TO ENTER INTO AN AGREEMENT
WITH MOSTELLER & ASSOCIATES TO PROVIDE
CONSULTING AND RECRUITING ASSISTANCE IN
THE SCREENING AND SELECTION OF AN
INDIVIDUAL FOR THE POSITION OF BOROUGH
MANAGER OF THE BOROUGH OF KUTZTOWN.

WHEREAS, Jaymes A. Vettrano has served as the Borough Manager for the Borough of Kutztown since December 30, 2002; and

WHEREAS, Jaymes A. Vettrano has resigned from the position of Borough Manager of the Borough of Kutztown effective May 9, 2008; and

WHEREAS, it is essential to the proper operation of the government of the Borough of Kutztown, as well as to assure that the laws are faithfully enforced, that a qualified individual be appointed to the position of Borough Manager of the Borough of Kutztown; and

WHEREAS, the Borough of Kutztown desires to conduct a professional and extensive search for a replacement to Mr. Vettrano as Borough Manager; and

WHEREAS, the Borough Council of the Borough of Kutztown desires to utilize the assistance of a human resources professional in conducting its search for a new Borough Manager; and

WHEREAS, the firm of Mosteller & Associates is able to provide professional human resource services to the Borough of Kutztown to aid in its search for a Borough Manager and has submitted a proposal to do the same; and

WHEREAS, the Borough Council of the Borough of Kutztown desires to utilize the services of Mosteller & Associates during its search for a new Borough Manager.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Kutztown, County of Berks, Commonwealth of Pennsylvania, that the Borough Council of the Borough of Kutztown does hereby authorize and direct that Malcolm A. Eidle, Borough Council President of the Borough of Kutztown, be and he is hereby authorized and directed to execute an agreement between the Borough of Kutztown and Mosteller & Associates for the provision of professional human resource services to the Borough of Kutztown to aid in the search, recruitment and retention of a new Borough Manager. The services to be provided by Mosteller & Associates and the agreement between the parties are set forth in a "Proposal" submitted to the Borough of Kutztown for said services and attached hereto as Exhibit "A." The Borough hereby selects Alternative II under the Proposal. Said Exhibit "A" is incorporated herein by reference as if fully set forth herein.

BE IT FURTHER RESOLVED, that Malcolm A. Eidle, Borough Council President, shall be the primary contact between the Borough Council and Mosteller &

