

August 8, 2000
Kutztown, PA

The regular meeting of the Kutztown Borough Council was called to order at 7:30 p.m. by the President, Mr. Eric A. Ely, with other members present: Mr. Malcolm A. Eidle, Mr. Carl W. Mantz, Mr. John E. P. Schmoyer, Mr. Archie L. Follweiler, Jr., Mrs. Jan M. Crooker, and the Mayor, Mr. James W. Schwoyer. Mr. Timothy G. Dietrich, Borough Solicitor; Mr. Keith A. Hill, Borough Manager/Treasurer; Mr. Dale Kratzer, representing the Borough's planning and water/wastewater engineering firm of Spotts, Stevens, & McCoy, Inc.; Mr. Norman Milnes, Transportation, Sanitation, Grounds & Buildings Division Superintendent; Mr. Theodore R. Cole, Chief of Police; Mr. Richard J. Diehm, Planning/Zoning Administrator; Mr. Frank Caruso, Director of Information Technologies; Mrs. Bonnie Bray, Borough Secretary; Mr. Kenneth Kern, member of the Borough Planning Commission; Mr. Carl Lobb, Kutztown property owner; Roger and Marge Hassler, Kutztown residents; Rich Reimert, representing the Kutztown Soccer Club; James Schlegel, representing the Kutztown Transportation Authority; and Jason Brudereck, reporter for the Reading Eagle/Reading Times were also present.

President Ely recessed the Council Meeting at 7:30 p.m. for the purpose of conducting a Public Hearing on the proposed ordinance amending Chapter 5 of the Code of the Borough of Kutztown, entitled "Authorities, Municipal" by adding thereto a new Article II regarding the creation of a new municipal authority to be known as the "Kutztown Transportation Authority," the specific purpose of which shall be to acquire, own, manage and operate a railway line; and to propose Articles of Incorporation for said authority. Mr. Dietrich read aloud the caption of the proposed ordinance amending

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Chapter 5 of the Code of the Borough of Kutztown, entitled "Authorities, Municipal" by adding thereto a new Article II regarding the creation of a new municipal authority to be known as the "Kutztown Transportation Authority," the specific purpose of which shall be to acquire, own, manage and operate a railway line; and to propose Articles of Incorporation for said authority. Mr. Ely opened the hearing for any public comments. Mr. Lobb inquired about the income generation from the Kutztown Transportation Authority (KTA). Mr. Hill replied that under the proposed operating agreement with East Penn Railways, Inc., the Borough will be entitled to a percentage of the revenues generated by the passenger and freight services provided by East Penn Railways, Inc. He further indicated that the Borough is anticipating a sporadic revenue stream at first and is looking at trying to resurrect the passenger services for holidays and special events. Mr. Hassler asked if there were any costs related to maintaining the property. Mr. Hill responded that routine maintenance issues are addressed in the proposed operating agreement with East Penn Railways, Inc. He expounded that in the early 1990's, the Commonwealth invested a considerable amount in maintenance of the railway line. Mr. Eidle interceded that the Borough primarily purchased the line for the potential rights-of-way. Mr. Hill commented that the Commonwealth has informed the Borough if maintenance issues become a problem, there are funding programs and other sources available for regional projects.

A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To enact and ordain the following ordinance:

ORDINANCE NO. 5-2000

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING

CHAPTER 5 OF THE CODE OF THE BOROUGH OF KUTZTOWN, ENTITLED "AUTHORITIES, MUNICIPAL" BY ADDING THERETO A NEW ARTICLE II REGARDING THE CREATION OF A NEW MUNICIPAL AUTHORITY TO BE KNOWN AS THE "KUTZTOWN TRANSPORTATION AUTHORITY", THE SPECIFIC PURPOSE OF WHICH SHALL BE TO ACQUIRE, OWN, MANAGE AND OPERATE A RAILWAY LINE; AND TO PROPOSE ARTICLES OF INCORPORATION FOR SAID AUTHORITY.

Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To adopt the following resolution:

RESOLUTION NO. 13-2000

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, PROVIDING (1) FOR THE ASSIGNMENT TO THE KUTZTOWN TRANSPORTATION AUTHORITY OF THAT CERTAIN AGREEMENT BY AND BETWEEN THE BOROUGH OF KUTZTOWN AND THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION FOR THE SALE TO THE BOROUGH OF KUTZTOWN OF THAT CERTAIN RAILWAY LINE KNOWN AS THE USRA LINE NO. 910, KUTZTOWN INDUSTRIAL TRACK, BERKS COUNTY; (2) AUTHORIZING THE TRANSFER TO THE KUTZTOWN TRANSPORTATION AUTHORITY OF THE SUM OF \$160,000.00 IN ORDER TO FUND THE PURCHASE PRICE FOR THE AFORESAID ACQUISITION OF THE RAILWAY LINE; (3) IN CONSIDERATION FOR THE FOREGOING, PROVIDING FOR THE GRANTING TO THE BOROUGH OF KUTZTOWN BY THE KUTZTOWN TRANSPORTATION AUTHORITY OF A RIGHT-OF-WAY AND EASEMENT IN THE AFORESAID RAILWAY LINE; (4) AUTHORIZING THE EXECUTION AND DELIVERY OF A CERTAIN MANAGEMENT AGREEMENT BY AND BETWEEN THE BOROUGH OF KUTZTOWN AND THE KUTZTOWN TRANSPORTATION AUTHORITY; (5) AUTHORIZING THE ASSIGNMENT TO THE KUTZTOWN TRANSPORTATION AUTHORITY OF THAT CERTAIN OPERATING AGREEMENT BETWEEN THE BOROUGH OF KUTZTOWN AND EAST PENN RAILWAYS, INC.; AND (6) AUTHORIZING THE APPROPRIATE OFFICERS OF THE BOROUGH OF KUTZTOWN TO TAKE SUCH ACTION AND EXECUTE SUCH DOCUMENTS AS MAY BE NECESSARY TO EFFECTUATE THE INTENT OF THIS

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RESOLUTION.

WHEREAS, the Council ("Council") of the Borough of Kutztown ("Borough") has previously determined that it is in the best interests of the Borough, as well as the residents and taxpayers of the Borough, that the Borough seek to acquire that certain railway line known as USRA Line No. 910, Kutztown Industrial Track, Berks County ("Railway"); and

WHEREAS, the Department of Transportation ("PennDOT") of the Commonwealth of Pennsylvania, previously entertained sealed bids for the acquisition of the Railway and the Borough submitted a bid for the purchase of the Railway; and

WHEREAS, the Borough has been advised by PennDOT that the Borough was the highest and successful bidder for the purchase of the Railway, having bid the sum of \$151,001.00; and

WHEREAS, as a part of its bid submitted, the Borough executed an agreement ("Operating Agreement") for the operation of the Railway with East Penn Railways, Inc., which Operating Agreement is assignable to the KTA; and

WHEREAS, the Borough and PennDOT have executed and delivered that certain Agreement of Sale ("Agreement of Sale") for the Railway, such Agreement of Sale being dated July 25, 2000, providing for the sale of the Railway by PennDOT to the Borough; and

WHEREAS, the Borough has on this date enacted an ordinance establishing an Authority to be known as the "Kutztown Transportation Authority" ("KTA"), pursuant to the Municipality Authorities Act of 1945, as amended, for the purpose of owning and operating the Railroad; and

WHEREAS, the Council of the Borough, by approving this Resolution, desires and intends to assign its rights under the Agreement of Sale and the Operating Agreement to the KTA, to provide funding to the KTA for the acquisition of the Railway, all in consideration of the granting by the KTA to the Borough of a right-of-way in the Railway, and to provide for certain other matters relating to the management and operation of the Railway.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough, and it is hereby RESOLVED AND ADOPTED by the authority of the same, as follows:

1. The Borough shall execute and deliver to the KTA and PennDOT an assignment to the KTA of all right, title and interest of the Borough in and to the Agreement of Sale, provided that the KTA accepts and assumes responsibility for the Agreement of Sale and PennDOT consents to such assignment.

2. The Borough shall execute and deliver to the KTA an assignment of all

right, title and interest of the Borough in and to the Operating Agreement, provided that the KTA accepts and assumes responsibility for the Operating Agreement and PennDOT consents to such assignment.

3. The sum of One Hundred Sixty Thousand Dollars (\$160,000.00) shall be transferred from the Borough to the KTA in order to provide sufficient financing for the KTA to perform its purchase obligation under the Agreement of Sale and financing of operating expenses.

4. The Borough shall execute and deliver to the KTA a management agreement, in form and substance satisfactory to the officers of the Borough, pursuant to which the Borough will undertake management responsibility for the day-to-day operations of the KTA, subject to the understanding that many of such operational responsibilities will be fulfilled by East Penn Railways, Inc. pursuant to the Operating Agreement.

5. In consideration for the foregoing, the KTA shall grant to the Borough a right-of-way and easement, for the installation and operation of utilities, recreational purposes, other means of transportation, and for other general purposes, upon, over, across, above and beneath the Railway, which easement and right-of-way must be acceptable to the appropriate officers of the Borough in form and substance.

BE IT FURTHER RESOLVED, that the officers of the Borough are hereby authorized and directed to execute and deliver such documents, to make such transfers of funds and to take such other actions as may be necessary to effectuate the transactions described above and to carry out the intent of this Resolution.

BE IT FURTHER RESOLVED, that any and all resolutions and parts of resolutions inconsistent with this Resolution are hereby superseded and this Resolution shall remain in effect until superseded by a duly adopted Resolution of the Council of the Borough.

DULY ADOPTED AS A RESOLUTION this 8th day of August, 2000 by the Council of the Borough of Kutztown, County of Berks, Commonwealth of Pennsylvania, in lawful session duly assembled.

Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To appoint the following members to the Kutztown Transportation Authority:

| <u>Name</u> | <u>Term of Office</u> |
|-------------|--------------------------------|
| Troy Arndt | 2 years expiring January, 2003 |

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|-----------------|--------------------------------|
| Patrick Conrad | 1 year expiring January, 2002 |
| Richard J. Diem | 3 years expiring January, 2004 |
| James Schlegel | 5 years expiring January, 2006 |
| Keith Wuchter | 4 years expiring January, 2005 |

Passed by unanimous vote.

Mr. Hill noted that the proposed design for the KTA logo has been distributed to Council for comment and authorization. Action will be taken at the KTA meeting to adopt the official logo.

A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To approve and accept the Minutes of the May 9 and 23, 2000 Council Meetings, with the following correction to the May 9, 2000 minutes:

Page 14938, second paragraph, fifth word in third sentence should be "received" instead of "retained." Passed by unanimous vote.

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

Under Borough Planning Commission, Mr. Kern had nothing to report.

Under Public Relations Committee, a motion was made by Mrs. Crooker, seconded by Mr. Eidle, Resolved, To accept the Borough Code Office Report for July, 2000. Passed by unanimous vote.

A motion was made by Mrs. Crooker, seconded by Mr. Mantz, Resolved, To reimburse the owners of 531 East Main Street in the amount of \$1,946.86 for eligible ADA curb ramp work completed. Passed by unanimous vote.

A motion was made by Mrs. Crooker, seconded by Mr. Eidle, Resolved, To appoint David R. Johnson as an alternate member of the Kutztown Zoning Hearing Board. Passed by unanimous vote.

Under Police Committee, Mayor Schwoyer reported the following fines were collected:

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|------------------------|------|------------|
| District Justice Greth | June | \$9,672.30 |
| Clerk of Common Pleas | June | \$340.00 |
| Secretary's Office | July | \$1,715.00 |

Mayor Schwoyer noted that the Police Report for July, 2000 will be ready for the next Council Meeting.

Under Streets & Refuse Committee, a motion was made by Mr. Mantz, seconded by Mr. Schmoyer, Resolved, To award the bids received for gasoline and diesel fuel to Geo. Y. Brubaker, Inc., Kutztown, PA, in the total amount of \$16,095.00 for 15,000 gallons of unleaded plus gasoline based on a tank wagon price of \$0.9930, with a delivery cost of \$0.08 per gallon and in the total amount of \$5,616.00 for 6,000 gallons of diesel fuel based on a tank wagon price of \$0.8560, with a delivery cost of \$0.08 for a bid total of \$21,711.00. Passed by unanimous vote.

A motion was made by Mr. Mantz, seconded by Mr. Schmoyer, Resolved, To authorize Great Valley Consultants, Wyomissing, PA, to prepare specifications and the associated drawings for the proposed yard waste drop-off site improvements, with a construction date of Summer of 2001 at a cost not to exceed \$4,800.00. Mr. Hill indicated that this is an unbudgeted expense. Mr. Mantz responded that the Borough anticipates applying for a state grant for this project. Mr. Milnes further commented that

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the project will only cost \$1,000.00 this year and that the remaining cost will be budgeted for next year. Passed by unanimous vote.

A motion was made by Mr. Mantz, seconded by Mr. Eidle, Resolved, To adopt the proposed resolution authorizing the appropriate Borough officials to execute the Winter Traffic Services Five-Year Agreement with the Commonwealth of Pennsylvania Department of Transportation as follows:

RESOLUTION NO. 14-2000

BE IT RESOLVED, by authority of the Borough Council of the Borough of Kutztown, Berks County, and it is hereby resolved by authority of the same that the President of said MUNICIPALITY be authorized and directed to sign the Winter Services Contract with PennDOT for the winter seasons from 2000 to 2005. Passed by unanimous vote.

Mr. Mantz reported on an item off of the agenda regarding the library capital campaign fund. He announced that the \$18,000 mortgage with Alvin H. Butz, Inc., the construction supervisor for the library project, was paid eight months ahead of schedule.

Under Personnel Committee, a motion was made by Mr. Schmoyer, seconded by Mr. Mantz, Resolved, To accept the resignation of Deloros Trumbauer as a part-time Library Clerk at the Louisa Gonser Community Library, effective August 15, 2000. Passed by unanimous vote.

A motion was made by Mr. Schmoyer, seconded by Mr. Mantz, Resolved, To retain Cynthia Brey as a part-time Library Clerk for evenings and weekends at the Louisa Gonser Community Library at an hourly rate of \$6.50, effective August 8, 2000. Passed

by unanimous vote. Mr. Schmoyer pointed out that Ms. Brey was hired in May, 2000 as a temporary library clerk.

A motion was made by Mr. Schmoyer, seconded by Mr. Mantz, Resolved, To confirm full-time employment for Kristine K. Polster, Police Secretary, upon completion of her probationary period on August 9, 2000. Passed by unanimous vote.

Under Recreation Committee, a motion was made by Mr. Follweiler, seconded by Mr. Mantz, Resolved, To approve the request from KYAA for allocation and use of space at the Kutztown Park baseball fields as follows:

1. Exclusive use to KYAA of the Kutztown Park Senior Field (the field near the little league field with the new fence) for Tuesday and Thursday nights from 5:00 p.m. to 10:30 p.m. and agree to hold this field (and not approve further use on Saturdays or Sundays in September and October) until KYAA's fall season schedule is available; and
2. KYAA's use of the Kutztown Park Softball Field for softball pitching and general practice on Tuesday evenings from 5:00 p.m. to 10:30 p.m. from August 14, 2000 through November 14, 2000.

Passed by unanimous vote.

A motion was made by Mr. Follweiler, seconded by Mr. Mantz, Resolved, To approve the request from the Kutztown Soccer Club (KSC) for field availability and allocation of space at the Kutztown Park fields as follows:

1. Exclusive use to KSC of the Kutztown Park Legion Baseball Field on Monday through Friday from August 14, 2000 through November 12, 2000;

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2. Exclusive use to KSC of the outfield area of the Kutztown Park Babe Ruth Field from August 14, 2000 through November 12, 2000, seven days per week, as requested, contingent upon
 - i.) KSC remaining in the outfield area without disturbing the infield;
 - ii.) their using fold-up goals rather than establishing permanent goals; and
 - iii.) KSC agreeing to vacate the fields area if their games or practices interfere with the East Coast Tournament Baseball schedule; or
 - iv.) KSC using the Kutztown Park Multi-Purpose Field instead if the Kutztown Cougar Youth Football Club does not need this field for any reason; and
3. KSC's use of the Kutztown Park Softball Field and lights for practices on Monday, Wednesday, and Friday nights from 5:00 p.m. to 10:30 p.m.;

And

Be It Further Resolved, To deny KSC's request to use the Kutztown Park Senior Field at this time. Passed by unanimous vote.

Under Grounds & Buildings Committee, a motion was made by Mr. Follweiler, seconded by Mr. Mantz, Resolved, To amend the Kutztown Park Roller Rink Classes Agreement with the Tri-Valley Branch of the YMCA to conduct fitness classes for the 2000 Summer Season, extending the term to August 31, 2000. Passed by unanimous vote.

A motion was made by Mr. Follweiler, seconded by Mr. Mantz, Resolved, To deny the request from the Lenape Bulldog Club of Pennsylvania to hold a bulldog fun match in the Kutztown Park on Sunday, September 17, 2000 from 10:00 a.m. to 6:00 p.m. Passed by unanimous vote.

Under Public Works Committee/Electric Supply Engineering, Mr. Eidle had nothing to report.

Under Wastewater Engineering, Mr. Eidle had nothing to report.

Under Water Supply Engineering, a discussion ensued regarding the letter received from LB&W Design Associates, Inc., Allentown, PA, on behalf of Kutztown Resource Management, Inc., requesting water and sewer service for 19 proposed townhouses to be constructed at the southwest corner of Kutztown Road and South Campus Drive. Mr. Hill explained that he already responded in writing to Kutztown Resource Management, Inc., on July 13, 2000, per Council's instructions, affirming allocated water supply and wastewater treatment capacity available from the facilities of the Kutztown Municipal Authority and the Borough of Kutztown to serve the proposed student housing project as described by Kutztown Resource Management and advising them that until all applicable connection fees, tapping fees, facility fees, permit fees and any other applicable fees are paid in full, conditions, costs and capacity allocation are subject to change. A motion was made by Mr. Eidle, seconded by Mr. Schmoyer, Resolved, To authorize the Borough Manager to respond in writing to LB&W Design Associates, Inc., acknowledging their project, and emphasizing that water and sewer service cannot be allocated until all applicable fees are paid and permits issued. Passed by unanimous vote.

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Mr. Hill asked for Council's approval to submit an Environmental Stewardship and Watershed Protection Grant Application for 2000-2001 for Growing Greener grant funds, draft copies of which were distributed to Council. He indicated that the project, "222 Route Dev.Com," a watershed assessment and plan development, would address water supply and water protection issues for the Maiden Creek and Sacony Creek watershed areas, in addition to pursuing efforts to accomplish utilizing quarry discharge water and surplus reservoir water as a supply source to areas of the 222 corridor. Mr. Hill pointed out that the grant request is for \$15,000, with a match of \$15,000 and donated services of \$5,000. He explained that the matching portion can be in-kind services. Mr. Hill further informed Council that the grant request will be endorsed by the Berks County Conservation District as well as the Conservancy. Mr. Kratzer indicated that the award date may be sometime in November. A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To authorize the appropriate Borough officials to submit the Environmental Stewardship and Watershed Protection Grant Application for 2000-2001 for Growing Greener grant funds for the "222 Route Dev.Com project," a watershed assessment and plan development. Passed by unanimous vote.

Under Finance Committee, Mr. Hill reviewed a proposal with Council for customer service options for additional bill payment methods for utility services, parking tickets, and permits, etc. Mr. Hill explained that credit card uses may include service deposits, utility payments, parking fine payments, Code Office permits and miscellaneous invoices and that auto-pay uses would include monthly utility bills. He pointed out that there is an increasing demand to use credit cards and auto-payments for business transactions. Mr. Hill reviewed the projected costs to the Borough to provide Borough

customers with the option of paying their bills by credit card. He informed Council that there would be a \$4.00 per location monthly service charge, initial application fee of \$40.00, a slide terminal at a cost of \$510.00, and a PIN pad at a cost of \$230.00, in addition to a \$10.00 charge back fee per occurrence, a 1.47% + \$0.45 VISA transaction fee, and a 1.40% + \$0.50 MasterCard transaction fee. Costs associated with implementing an auto-payment service at Sovereign Bank include an initial fee of \$15.00, a transaction fee of \$0.11 for 1-100 transactions and \$0.09 for transactions over 100, and a transaction batch fee of \$15.00. Mr. Hill suggested that the Borough absorb these transaction costs for this year, and pointed out by next year the Borough is guaranteed another electric rate decrease which could be used to offset the added expense. He further indicated that adding these payment options would be a definite customer service enhancement. The Mayor replied that this could cost the Borough \$15,000 per year. Mr. Hill responded that when the total revenues for the Borough are taken into consideration, adding payment options as a customer service enhancement would represent a very small portion of the overall budget. Mr. Eidle supported the idea of offering additional payment options to the Borough's customers, commenting that these transactions would represent cash-in-hand. Mr. Dietrich advised that no ordinance would be required to implement the auto-payment option, but that with the credit card payment option, an ordinance would be required because the Borough would actually be receiving a discounted payment amount. He also pointed out that the interest the Borough would receive may even offset the transaction fees. Mr. Eidle pointed out that the student population would probably take advantage of these payment options. Mr. Caruso also pointed out that customers would most likely prefer using auto-payment because there is

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no fee for this service, as opposed to credit card fees. He explained that customers will be notified of when money is withdrawn from their account. A motion was made by Mr. Schmoyer, seconded by Mr. Eidle, Resolved, To authorize the Borough Solicitor to prepare an ordinance to permit bill payments by credit card to the Borough; And Be It Further Resolved, To authorize the Borough Manager and Borough Solicitor to prepare any required policies and procedures (if needed) in order to implement the credit card and auto payment options for bill payments owed to the Borough of Kutztown. Passed by unanimous vote.

Under Miscellaneous, a motion was made by Mr. Eidle, seconded by Mr. Schmoyer, Resolved, To authorize the appropriate Borough officials to execute the annual Extended Warranty Agreement with Fraser Advanced Information Systems, West Reading, PA, in the amount of \$238.40 for the Canon Copier located at the Wastewater Treatment Facility. Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To authorize the Finance Committee to review and approve the payment of bills and necessary transfers of funds with a list of the bills to be presented at the August 22, 2000 Council Meeting to ratify approval by the entire Council; And Be It Further Resolved, To adjourn the Council Meeting upon vote. Passed by unanimous vote. The meeting ended at 8:43 p.m.

Prepared and
Attested by: Bonnie Bray
Secretary