



March 11, 2003
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 the President, Mr. Eric A. Ely, with other members present: Mr. Malcolm A. Eidle, Mr. Carl W. Mantz, Mr. James W. Schwoyer, Mr. Archie L. Follweiler, Jr., Mrs. Jan M. Crooker, and the Mayor, Mr. Gennaro A. Marino. Mr. Matthew H. Doll, representing the Borough Solicitor; Mr. Jaymes A. Vettrano, Borough Manager/Treasurer; Mr. Richard F. Celmer, 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. David Rohrbach, Information Technologies Coordinator; Bonnie Bray, Borough Secretary/Human Resources Director; Mr. Kenneth Kern, member of the Borough Planning Commission; Residents Ed Seyler, Gregory Heid, David Deturk, Robert Shade, Melissa Keller, Robert and Joan Gangewere, Dave Remaley, Mr. and Mrs. William Fox, Evelyn Adams, Carl A. Lobb, Tim Seyler, Marcella Brinker, Anna Deisher, Jonathan Grim, Bryan Rosenberg, Kevin McCloskey, Bob Wolff, and Dan Courtney; Stu Stump, representing the Kutztown Fire Company truck crew; Mr. Robert Watrous, Director of Judicial Affairs at Kutztown University; Merav Bushlin, reporter for the Reading Eagle; and Nikki M. Murry, reporter for The Kutztown Area PATRIOT were also present.

Mayor Marino swore in Paul "Mike" Clery as a patrol officer for the Kutztown Borough Police Department.



A motion was made by Mr. Mantz, seconded by Mr. Follweiler, Resolved, To approve and accept the Minutes of the February 18, 2003 Council Meeting, with the following revisions:

Line 1, Page 16160 - Revise the first full sentence of the page to read: "He indicated that the average interest rate for a 25-year term municipal bond in 1998 was 4.83 percent, compared to the current average rate of 3.93 percent for the same 25-year term municipal bond."

Line 5, Page 16160 – Insert the word, "old" before the word, "bonds."

Under Grounds & Buildings Committee on Page 16179 – Insert the following sentences prior to the motion in which Council directed the police chief to secure the doors in the Kutztown Park. "Borough Council viewed the closing of the bathroom doors to be an extremely important matter for the safety and well being of the park users and for securing of the buildings at night to help reduce vandalism. The Mayor agreed that the Police Department would provide these services."

Passed by unanimous vote with Mr. Eidle abstaining from the vote because he was not present at the February 18, 2003 meeting.

Mr. Mantz updated Council and the Mayor on the most recent summary of fees and costs of the proceedings pertaining to compelling seeking court enforcement of Council's right under Borough Code, Section 1014, to subpoena the Mayor, prepared by Barley Snyder on March 10, 2003, as follows:



A. Personnel complaints – total amounts accrued regarding Personnel Committee proceedings:

(1) 3 rd quarter of 2002	\$4,098.30
(2) 4 th quarter of 2002	9,586.25
(3) January and February, 2003	<u>7,191.20</u>
	\$20,875.75

B. Accrual since September 27, 2002, date Mayor first declined to attend meeting; including unattended public meetings and subpoena enforcement:

(1) 3 rd quarter of 2002	\$901.70
(2) 4 th quarter of 2002	9,586.25
(3) January and February, 2003	<u>7,191.20</u>
	\$17,679.15

C. Cost prior to Mayor's 9/27/02 refusal to attend meeting:

(1) 3 rd quarter of 2002	\$3,196.60
(2) 4 th quarter of 2002	<u>0.00</u>
	\$3,196.60

D. Costs advanced in 4th quarter of 2002

(included in A.(2) above) for sheriff,
filing fees, transcripts, etc.

(all accrued since 9/27/02): \$475.75

Mayor Marino asked how much the Borough has spent in secretarial fees and advertising costs.



Under Public Comments, Mr. Ely asked if anyone wanted to address Council before proceeding with the agenda. Mr. Gangewere complimented the Borough Council and the staff for the 2003 Governor's Award for Local Government Excellence, for which the Borough will be honored in April. He was also impressed that other communities interested in Telecommunications have used the Borough as a model. Ms. O'Neil asked if the police department was enforcing the speed limit on Baldy Street. She indicated that she hasn't seen one citation given. The Chief responded that since she called, the police have been monitoring but because of the potholes, no one is driving faster than 5 mph. Mr. Ely suggested considering a four-way stop in the future to slow down traffic on Baldy Street.

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

Under Public Relations Committee, a motion was made by Mrs. Crooker, seconded by Mr. Follweiler, Resolved, To accept the Borough Code Office Report for February, 2003. Passed by unanimous vote.

A motion was made by Mrs. Crooker, seconded by Mr. Mantz, Resolved, To require the developer of Sacony Commons to submit an abbreviated traffic impact study for Phase 2 of said land development, as provided for and required by §195-36 of the Kutztown Code; And Be It Further Resolved, To require a more in-depth study if the traffic engineer determines that the results of the abbreviated study indicate a more in-depth study be conducted. Passed by unanimous vote.

Mrs. Crooker reviewed the Maxatawny Township proposed zoning changes. She reported that she attended a Township meeting last week, where it was revealed that the



Township is proposing ten zoning changes. Of utmost concern, Mrs. Crooker commented, are the following changes:

1. Rezoning all the Frederick properties between Deysher Road and the Borough line from the west side of the Sacony Creek westerly to the C-1 Commercial Zoning boundary line from AP Zoning District to R-2 Residential. (This is the area around the Borough's water treatment plant and Borough farm.)
2. Widening of C1 zone west of the Borough.
3. Rezoning the Kutztown University Property off of Baldy Road from R-2 Zoning to IN Institutional Zoning.
4. Rezoning the Berks Products Quarry area along Baldy Road from L-I Light Industrial Zone to I Industrial.

Mrs. Crooker further indicated that since the Borough is presently working with the Township on a joint comprehensive plan, as well as a proposal for a joint sewer plant, she would have preferred that the Township wait until the joint plan is completed to make any zoning changes. Mr. Ely suggested sending a letter to the Township advising them of the Borough's concerns. Mr. Vettraino will draft a letter to the Township and review it with the Public Relations Committee prior to mailing.

A motion was made by Mrs. Crooker, seconded by Mr. Follweiler, Resolved, To authorize the Borough Manager to purchase up to three memberships for individual Borough employees to join the Kutztown Area Chamber of Commerce. Passed by unanimous vote.

Under Police Committee, Chief Cole reported the following fines were collected:

District Justice Greth	January, 2003	\$8,499.10
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Clerk of Common Pleas	January, 2003	\$437.10
Secretary's Office	February, 2003	\$4,070.00

Mr. Doll read aloud the proposed ordinance amending Chapter 206 of the Kutztown Code empowering the police department to regulate transient sales and repealing Chapter 160. A motion was made by Mr. Mantz, seconded by Mrs. Crooker, Resolved, To enact and ordain the following ordinance:

ORDINANCE NO. 1-2003

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA AMENDING CHAPTER 206 OF THE CODE OF THE BOROUGH OF KUTZTOWN TO EMPOWER THE KUTZTOWN BOROUGH POLICE DEPARTMENT TO REGULATE TRANSIENT RETAIL BUSINESS AND REPEALING CHAPTER 160 OF THE CODE OF THE BOROUGH OF KUTZTOWN, ENTITLED "BOROUGH OF KUTZTOWN PEDDLING, CANVASSING AND SOLICITING ORDINANCE".

Passed by unanimous vote.

A discussion ensued regarding the request to conduct a traffic study in the vicinity of College Boulevard from College Garden Drive to Lytle Lane to determine the feasibility of establishing a No Parking Area on the west side of College Boulevard from College Garden Drive and extending southward 178 feet, more or less, to Lytle Lane. Chief Cole pointed out that the resident at 350 College Boulevard filed a complaint about cars parking on either side of his driveway; and after reviewing the situation, the Chief recommended that the area in question be designated as a "no parking zone." He further indicated that a traffic study would be required before posting the area. Mr. David Deturk suggested that the area be designated as a permit parking area. The agenda item was tabled for further investigation.



A motion was made by Mrs. Crooker, seconded by Mr. Eidle, Resolved, To authorize the traffic study on Normal Avenue in the vicinity of the Kutztown Elementary School to determine the feasibility of establishing a No Parking Area During School Hours on Normal Avenue directly in front of the Kutztown Elementary School, contingent upon the Kutztown Area School District's agreement to pay for the study and signs. Passed by unanimous vote.

Noting the problem of cigarette butts being littered everywhere, Mr. Archie Follweiler asked the Police Chief if the littering laws are being enforced in the Borough. Chief Cole responded that the police department is enforcing the state litter laws whenever possible.

Under Streets & Refuse Committee, Mr. Doll read aloud the caption of the proposed ordinance regarding the Kutztown Recycling Program. A motion was made by Mr. Follweiler, seconded by Mr. Eidle, Resolved, To enact and ordain the following ordinance:

ORDINANCE 2-2003

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF KUTZTOWN BY ADDING THERETO A NEW CHAPTER 172 ENTITLED "KUTZTOWN RECYCLING PROGRAM", ESTABLISHING A PROGRAM FOR THE COLLECTION OF RECYCLABLE MATERIALS FROM RESIDENTIAL, COMMERCIAL, MUNICIPAL, AND INSTITUTIONAL ESTABLISHMENTS, AND FROM COMMUNITY ACTIVITIES WITHIN THE BOROUGH OF KUTZTOWN, FOR RECYCLING PURPOSES; TO PROHIBIT THE DISPOSAL OF RECYCLABLE MATERIALS INTO THE MUNICIPAL SOLID WASTE DISPOSAL SYSTEM; TO EMPOWER THE BOROUGH OF KUTZTOWN TO ADOPT AND PROMULGATE



REASONABLE REGULATIONS THEREFORE; AND
TO FIX PENALTIES FOR THE VIOLATION THEREOF.

Passed by unanimous vote.

Mr. Follweiler noted that in response to residents' inquiries, shredded paper is recyclable.

Under Personnel Committee, a motion was made by Mr. Mantz, seconded by Mr. Follweiler, Resolved, To instruct the Kutztown Borough Civil Service Commission to certify an Eligibility List for the position of patrol officer with that Eligibility List containing at least three candidates. Mr. Mantz explained that this is a special request from the police department in anticipation of the loss of one of its officers. Passed by unanimous vote.

A motion was made by Mr. Mantz, seconded by Mr. Follweiler, Resolved, To authorize the advertisement for two temporary seasonal laborers for Grounds and Buildings, at an hourly rate of \$8.16. Passed by unanimous vote.

A motion was made by Mr. Mantz, seconded by Mr. Follweiler, Resolved, To approve the expenses for Council Members, the Mayor, and their respective spouses to attend the 92nd Annual Conference of the Pennsylvania State Association of Boroughs, scheduled for June 22-25, 2003, at the Hershey Lodge & Convention Center. Passed by unanimous vote.

A motion was made by Mrs. Crooker, seconded by Mr. Eidle, Resolved, To appoint Carl Mantz as the official voting delegate to vote on proposed resolutions and policies at the 92nd Annual Conference of the Pennsylvania State Association of Boroughs, scheduled for June 22-25, 2003, at the Hershey Lodge & Convention Center. Passed by unanimous vote.



Under Recreation Committee, a motion was made by Mr. Schwoyer, seconded by Mr. Eidle, Resolved, To approve the request for the Kutztown Dolphin Swim Team to host the Berks County Swim Association Invitational Meet at the Kutztown Swimming Pool on a weekend day (to be determined), with the understanding that the Kutztown Dolphin Swim Team will pay the wages of the lifeguards and pool managers required to work during the hours of the tournament and with the further understanding that the Swim Team will accept full responsibility for cleaning up the Swimming Pool grounds immediately after the tournament; And Be It Further Resolved, To authorize a delayed opening of the Kutztown Swimming Pool on the day of the tournament. Passed by unanimous vote.

Under Grounds & Buildings Committee, a motion was made by Mr. Schwoyer, seconded by Mr. Eidle, Resolved, To approve the request from the Kutztown Area School District Athletic Department to use the Kutztown Park senior field and softball field for high school and middle school softball practices and games, starting in the latter part of March, 2003 through May 31, 2003, dependent upon the condition of the fields. Passed by unanimous vote. A motion was made by Mr. Eidle, seconded by Mrs. Crooker, Resolved, To include the Babe Ruth field, if needed, in the above-stated request from the Kutztown Area School District Athletic Department, dependent upon the condition of the field. Passed by unanimous vote. Mrs. Crooker asked how it will be determined that the fields are ready. Mr. Schwoyer responded that he and the Superintendent will determine the readiness of the fields.



A motion was made by Mr. Schwoyer, seconded by Mr. Mantz, Resolved, To award the lease for the following concession stands to Tracy Arnold for the 2003 and 2004 summer recreation seasons:

Kutztown Park Main Concession Stand	April 15 – September 30, 2003 April 15 – September 30, 2004
Kutztown Park Babe Ruth Concession Stand	April 15 – August 10, 2003 April 15 – August 8, 2004
Kutztown Swimming Pool Concession Stand	May 15 – September 15, 2003 May 15 – September 15, 2004

Passed by unanimous vote.

Mr. Schwoyer thanked the First National Bank of Fleetwood for their donation to the park.

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

Under Telecommunications, Mr. Doll read aloud the caption of the proposed resolution regarding television advertising. A motion was made by Mr. Eidle, seconded by Mr. Follweiler, Resolved, To adopt the following resolution:

RESOLUTION NO. 5-2003

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, AMENDING § A231-1 OF CHAPTER A231 OF THE CODE OF THE BOROUGH OF KUTZTOWN, ENTITLED "ENUMERATION OF FEES", SO AS TO AMEND CHAPTER 110, ENTITLED "FIBER OPTIC COMMUNICATIONS NETWORK" THEREOF, TO ADD A NEW PART 11 TO THE "SCHEDULE OF RATE AND SERVICES", OF THE CODE OF THE BOROUGH OF KUTZTOWN.

WHEREAS, by Ordinance 9-2002, certain provisions applicable to the fiber optic communications Network of the Borough of Kutztown were codified as Chapter 110 of



the Code of the Borough of Kutztown; and

WHEREAS, Chapter 110 of the Code of the Borough of Kutztown provides that a description of the Services to be made available through the Borough’s fiber optic communications Network and the rates to be charged for such Services shall be established from time to time by a resolution of the Borough Council adopting a Schedule of Rates and Services to be set forth in Chapter A231 of the Code of the Borough of Kutztown; and

WHEREAS, by adopting this Resolution, the Borough Council desires to comply with the aforesaid provisions of Chapter 110 of the Code of the Borough of Kutztown and to amend Chapter A231 of the Code of the Borough of Kutztown.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Council of the Borough of Kutztown, County of Berks, Commonwealth of Pennsylvania, pursuant to the authority contained in Chapter 110 of the Code of the Borough of Kutztown, as follows:

SECTION 1. Section A231-1 of Chapter A231 of the Code of the Borough of Kutztown entitled “Enumeration of Fees” is hereby amended so as to add a new Part 11 to the “Schedule of Rates and Services” of Chapter 110 thereof, entitled “Fiber Optic Communications Network”, to read as follows:

Part 11. Video Advertisement Rates.

Hometown Utilicom
Television Advertising

1. Rates.

Text Only Ad		1-Day	3-Day	5-Day	7-Day
	12 Hours 7AM-7PM 2 times per Hour*	\$3.00	\$7.50	\$11.25	\$14.00
	24 Hours 2 times per Hour*	\$5.00	\$9.00	\$15.00	\$21.00
Text & Picture Ad					
	12 Hours 7AM-7PM 2 times per Hour*	\$5.00	\$9.50	\$13.25	\$16.00
	24 Hours 2 times per Hour*	\$7.00	\$11.00	\$17.00	\$23.00

* AD may appear more than 2 times per hour depending on other AD’s appearing within the same hour

Picture must be JPG and/or BMP

Maximum 30 Words per display (less with images)

Maximum 2 images per display (limits text)

The Borough of Kutztown and Hometown Utilicom reserve the right to edit and if necessary reject any and all material.

AD’s must be paid in advance to Hometown Utilicom
45 railroad Street
Kutztown, PA. 19530



2. Payment and Application. All advertising purchases shall be accompanied by a payment in the amount of all charges applicable under Part 10 and shall be made by completion of a form that appears as follows:

Hometown Utilicom - Television

Name	
Address-1	
Address-2	
Contact Person	Phone & Extension

Sample Text Panel

Biggest Ever Garage Sale

This Saturday & Sunday

200 Families


Saturday 8AM-4PM
Sunday 12PM-4PM

•Computers	• Furniture	Household Goods
•Desks	Clothes	Toys
•Hunting	Golf Equipment	

Sample Display Panel

ABC Print Supply

- Your specialty Printing Center
- Local Business since 1975
- One stop shopping
- Check out our web-site
- www.abcprinting.com
- Hours Mon-Fri 8AM-5PM



Display Options

Starting Date	Ending Date	Starting Time	Ending Time	Days	Display
_____	_____	_____	_____	M T W T F S S	30 Second Display

Pricing

	Text Only Panel	Panel with Picture
1 Day 12 Hrs	\$ 3.00	\$ 5.00
1 Day 24 Hrs	\$ 5.00	\$ 7.00
3 Day 12 Hrs	\$ 7.50	\$ 9.50
3 Day 24 Hrs	\$ 9.00	\$11.00
5 Day 12 Hrs	\$11.25	\$13.25
5 Day 24 Hrs	\$15.00	\$17.00
7 Day 12 Hrs	\$14.00	\$16.00
7 Day 24 Hrs	\$21.00	\$23.00



Guaranteed 2 Times Per Hour Picture must be a JPG or BMP format (subject to review)

Available Print Size Maximum 30 Words Per Display (less with images)
Maximum 2 Images per display (limits text)

The Borough of Kutztown and Hometown Utilicom reserve the right to edit and if necessary reject any and all material. Payments must be made prior to AD display. Payment options include, Cash, Check, Credit Card (Visa, Mastercard, Discover)

3. Regulations. All advertisements proposed by consumers shall be subject to review, regulation, and/or refusal by the Borough in accordance with such rules and regulations as may be adopted by the Borough from time to time in accordance with Section 110-6 of the Code of the Borough of Kutztown.

SECTION 3. This Resolution shall take effect immediately upon its adoption and approval.

SECTION 4. If any provision, sentence, clause, section, or part of this Resolution shall for any reason be found to be unconstitutional, illegal or invalid, such determination shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Resolution, and it is hereby declared to be the intent of the Borough Council of the Borough of Kutztown that this Resolution would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not be included herein.

SECTION 5. Except to the extent of the specific matters which are set forth hereinabove and in the Schedule of Rates and Services, the provisions and fees set forth in § A231-1 of Chapter A231 of the Code of the Borough of Kutztown, as previously amended, shall remain in full force and effect.

SECTION 6. All Resolutions or parts of Resolutions inconsistent with this Resolution are hereby superseded.

SECTION 7. Capitalized terms used in this Resolution without definition shall have the meanings ascribed thereto in Chapter 110 of the Code of the Borough of Kutztown.

ADOPTED by the Council of the Borough of Kutztown, Berks County,
Pennsylvania, in lawful session duly assembled this 11th day of March, 2003.

Passed by unanimous vote.

Mr. Doll presented and read aloud the caption of the proposed resolution adding Parts 12, 13 and 14, "Web Hosting and Training Sessions," "Internet Gaming Server," and "E-mail Relay and Forwarding Services" respectively, to the Schedule of Rates and



Services of the Kutztown Code. A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To introduce the proposed resolution adding Parts 12, 13 and 14, "Web Hosting and Training Sessions," "Internet Gaming Server," and "E-mail Relay and Forwarding Services" respectively, to the Schedule of Rates and Services of the Kutztown Code; And Be It Further Resolved, To authorize advertisement of said proposed resolution with intent to adopt at the April 1, 2003 Council meeting. Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To approve Change Order No. 8 on Contract No. 2 with Atlantic Engineering Group, Braselton, GA, to reduce the contract period by 187 days. Passed by unanimous vote.

Under Wastewater Engineering, Mr. Eidle reported that the Act 339 funding through the state is in jeopardy right now and further indicated that the Borough Manager has written letters to legislators regarding this matter. Mr. Vettrano explained that Act 339 has been continuously passed by the legislature. The Act gives \$52 million to different sewer plants across the Commonwealth based on capital expenses. He pointed out that Governor Rendell's new budget proposes doing away with Act 339 funding to try to close the budget gap. Mr. Vettrano further commented that if the governor were to do eliminate Act 339, the Borough would lose ten percent of its sewer revenue. (With a budget of \$1.1 million, the Borough would lose \$119,000.) He advised that there is no way to make up a ten percent reduction in income without assessing fees on the back end. Mr. Vettrano stated that in the letter that he sent to Senator O'Pake, Representative Semmel, and a number of other representatives, he pointed out to them that by giving a tax reduction in property tax because of concern for senior citizens on fixed incomes and



by eliminating Act 339 funding, they're doing the exact opposite of what they want to accomplish because municipalities, Kutztown included, will have no other choice but to increase sewer fees. He reported that the House has passed the budget without this funding; it's being considered by the Senate. He advised Council that many municipalities and municipal authorities are joining Kutztown in pushing to keep this funding.

Under Water Supply Engineering, Mr. Eidle had nothing to report.

Under Finance Committee, Mr. Ely had nothing to report.

Under Miscellaneous, a motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To authorize the President and Vice President (Finance Committee) to review and approve the payment of bills and authorize the necessary transfer of funds, with the list of bills to be reviewed and approval ratified by the entire Council at the April 1, 2003 meeting; And Be It Further Resolved, To adjourn the Council meeting upon vote. Passed by unanimous vote. The meeting ended at 8:42 p.m.

Prepared and
Attested by: Bonnie Bray
Secretary