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March 16, 2004
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, Mrs. Jan M. Crooker, with other members of Borough Council present: Mr. James W. Schwoyer, Mr. Carl W. Mantz, Mr. Edwin K. Seyler, and the Mayor, Mr. Gennaro A. Marino. Keith Mooney, Borough Solicitor; Mr. Richard Celmer, representing the Borough's planning and water/wastewater engineering firm of Spotts, Stevens, & McCoy, Inc.; Mr. Jaymes Vettrano, Borough Manager/Treasurer; Mr. Norman A. Milnes, Superintendent of Public Works; Mr. Theodore R. Cole, Chief of Police; Mr. Richard J. Diehm, Director of Planning and Zoning; Mr. Frank P. Caruso, Director of Information Technology; Mrs. Gina M. Wiand, Director of Public Relations/Assistant Borough Secretary; Mr. Todd Meltsch, Director of Construction and Property Inspection; Mr. Robert Gately, Criminal Investigator; Mr. John E.P. Schmoyer, Seasonal Recreation Director; Kenneth Kern and Timothy Seyler, members of the Borough Planning Commission; Mr. Robert Watrous, Director of Judicial Affairs at Kutztown University; Residents Robert and Joan Gangewere, Ashley and David Washington, Brendan Strasser, Roger and Marjorie Hassler, Jeff DeTurk, Greg Heid, Troy Arndt, Stu Stump, Eric Ely, Kevin McCloskey, Brenda Grider, Yale Kroninger, Melissa and Bryan Keller, Bill and Dolly Fox, Fay Werley, Ted Kennish, Ruth Kern, Chuck Altenderfer, Dick Crooker, Dave Remaley, Renato Rodriguez, Al Oberholtzer, Lee J. Fulton, Jr; and Ms. Merav Bushlin, reporter for the Reading Eagle/Reading Times were also present.

President Crooker asked if there was anyone who wished to address Council before proceeding with the agenda. There were no public comments.

Mr. Mantz requested that the following item be removed from the Consent Agenda and placed under the Personnel Committee portion of the Regular Agenda:

Authorize the Borough to rehire 2002 and 2003 seasonal pool and park employees; and if necessary, authorize advertisement and hiring for lifeguards and swim coaches.

Regarding the following Consent Agenda item: Introduce and authorize advertisement of proposed Ordinances amending Chapters 11, 12, 77, 107, 119, 163 and 192 of the Kutztown Code, so as to comply with the Pennsylvania Uniform Construction Code; Mr. Vettraino noted that Chapters 107 and 191 do not need to be amended.

A motion was made by Mr. Schwoyer, seconded by Mr. Seyler, Resolved, To approve the consent agenda, with noted changes, consisting of the following items: To accept the Minutes of the February 3, February 17, and March 8, 2004 Council Meetings; to accept the Borough Code Office Report for February, 2004; to advertise the proposed Ordinance to amend the Kutztown Code by adding a new Chapter 75 to adopt Act 45, Pennsylvania Uniform Construction Code; to advertise the proposed Ordinances amending Chapters 11, 12, 77, 119 and 163 of the Kutztown Code, so as to comply with the Pennsylvania Uniform Construction Code; to advertise the proposed Ordinance to amend the Kutztown Code by adding Chapter 136 and amending Chapter 135 to adopt the Property Maintenance Code; to hire the Pennsylvania State Association of Boroughs Grant Services Program on an as-needed basis, at an hourly rate of \$100.00; to approve the expenses for any Council Members, the Mayor, and their respective spouses who are

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interested in attending the 93rd Annual PSAB Conference, scheduled for June 6-9, 2004, at the Seven Springs Mountain Resort; to approve the position descriptions for police sergeant and patrol officer; to confirm full-time employment for Walter Hess, whose probationary period will be completed on or about March 19, 2004; to approve the swimming pool admission rates for 2004; to approve the request from the Optimist Club of Kutztown to use the Kutztown Park Multi-Purpose field for its T-ball program at no charge, on Saturdays from May 1 through June 12, 2004, between the hours of 9 a.m. and 12:30 p.m., contingent upon providing the required insurance; to approve the request from CareNet for the use of the Brick Pavilion in the Kutztown Park for its 18th Annual Walk for Life planned for Saturday, April 24, 2004 from 8 a.m. to 11:30 a.m.; to approve the 2004 schedule for Music in the Park; to authorize the appropriate Borough officials to execute the Contract with the Allentown Band to perform two concerts on Kutztown Day at \$2,100 and to provide dinner for the band members on the day of the performance; to approve the request from the Tri-Valley YMCA to use the basketball court for a summer "Street Hockey Program," contingent upon providing the required insurance; to ratify the request to relieve the \$255.15 charges for emergency services provided to the Quandel Group on Normal Avenue on November 28, 2003; to ratify approval for the payment of bills and necessary transfers of funds as listed below:

GENERAL FUND

American Public Power	150.00
First Bankcard Center	23.94
Jarrad R. Burkert	40.00
Payroll Fund	47,282.21
Payroll Fund-Soc. Sec.	2,178.30
Recorder of Deeds	20.26
Ryan Dice	20.00
Staples Inc.	189.98

U S Post Office	350.00
UGI Utilities Inc.	18.99
William Cruz	257.40
Albright College	25.00
Arch Wireless Inc.	11.22
Carolann E Moody	14.26
Georgine L. and Lester Schoener	20.00
Gina M. Wiand	27.30
MBS A Konica Minolta Business	5,898.00
Payroll Fund	45,036.65
Payroll Fund-Soc. Sec.	2,031.99
Pennboc Region II	30.00
Recorder of Deeds	20.26
Richard J. Diehm	11.25
Sandra K. Green	45.00
Steven M. Wolf Esq.	6,107.80
William Cruz	257.40
ADT Security Services	238.70
Allentown Truck Sales	5.48
Aramark Uniform Services	301.80
Automotive Service Inc.	66.92
Barley Snyder	9,348.16
Berkheimer Associates	98.46
Berks Products Corp.	354.21
Berks-Mont Newspaper Inc.	50.07
Business Link	13.07
CDW Government Inc.	237.99
Choice Marketing Inc.	1,350.00
Clarence Cartwright	74.00
Commonwealth of PA	300.00
County of Berks	2,424.33
D & E	608.12
Dallas Miller	14.99
Decisionone Corp	78.13
Delaware County Solid	9,518.62
DeTurk Hardware	129.69
E J Breneman L P	1,328.20
E T Satchell Auto Supply	4.66
Eastern Industries Inc.	464.85
Electric Revenue Fund	6,017.52

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Engle-Hambright	7.56
Essick & Barr Insurance	314.00
Fegely Signs	46.87
First Bankcard Center	413.29
First Precinct Uniform	484.20
Grainger	8.64
Great Valley Consultants	3,114.90
Haldeman Ford of Kutztown	469.91
Hometown Utilcom	509.25
Industrial Appraisal Co.	200.60
Insurance Reserve Fund	19,025.00
Kutztown Auto Parts	110.50
Lantek	55.65
Locate Plus.Com Inc.	5.00
Lowe & Moyer Garage Inc.	9.58
M P Uniform & Supply Co.	59.96
MacMillan Oil Co.	142.98
Mamma's Delight	21.60
Margery J. Grandstrom	20.00
Met-Ed	125.21
Neopost	84.15
Nextel Communications	546.71
Nolt's Welding	4.00
Northern Safety Co. Inc.	26.00
Radio Maintenance Inc.	99.50
Reading Eagle Company	591.43
Recorder of Deeds	50.44
Ryly's Service Center	60.00
Safety League Inc. #1	107.79
Sam's Club	47.40
Seth Tilli	20.00
Sovereign Bank	67.23
Spotts Stevens & McCoy	1,058.50
State Chemical Mfg. Co.	215.48
Susquehanna Municipal	11,460.66
Tel-A-Talk Tas Inc.	18.00
The Rhode Agency Inc.	145.29
Trucko Inc.	3.58
Tyco Fire & Security	113.46
U S Cavalry	140.83
U S Municipal Supply Inc.	7,173.26

United Parcel Service	9.95
V W Eimicke Assoc.	30.60
Verizon	166.86
W S Reichenbach & Son	1,356.17
Waste Management	299.70
Weaver's Hardware Co.	145.57
Wireless Communications	246.00
Wrigley's Office Supply	<u>331.88</u>

\$192,860.32

WATER

Payroll Fund	9,979.06
Payroll Fund - Soc Sec	763.40
Recorder of Deeds	5.06
Carolann E Moody	1.13
Gina M. Wiand	11.13
Payroll Fund	9,859.88
Payroll Fund-Soc. Sec.	754.28
Recorder of Deeds	5.06
Troy R. Smith	50.25
Aqua Dynamic Systems Inc.	90.00
Aramark Uniform Services	132.84
Automotive Services Inc.	16.82
Barley Snyder	2,123.03
Berks Products Corp.	177.32
Berks -Mont Newspaper Inc.	30.42
CDW Government Inc.	79.32
D & E	31.13
Decisionone Corp.	62.50
DeTurk Hardware	29.62
E J Breneman L P	33.00
Electric Revenue Fund	8,499.78
Fegely Signs	46.87
First Bankcard Center	137.75
George S. Coyne Chem. Co.	476.70
Hach Company	443.04
Hometown Utilicom	219.38
Industrial Appraisal Co.	39.99
Insurance Reserve Fund	3,664.00
Kutztown Auto Parts Inc.	16.55
Lab Safety Supply Inc.	145.62
Lawco Inc.	150.00

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M J Reider Association, Inc.	375.00	
MacMillan Oil Co.	23.83	
Neopost	38.25	
Nextel Communications	60.76	
Nolt's Welding	2.00	
Northern Safety Co. Inc.	13.00	
PA One Call System Inc.	9.10	
PA Rural Water Assoc.	220.00	
PA Section AWWA	280.00	
Reading Eagle Company	39.53	
Sovereign Bank	67.23	
Spotts Stevens & McCoy	344.50	
Susquehanna Municipal	1,902.17	
Tel-A-Talk Tas Inc.	18.00	
The Rhode Agency Inc.	81.48	
Tyco Fire & Security	37.82	
USA Blue Book	30.29	
V W Eimicke	10.20	
W S Reichenbach & Son	113.50	
Wrigleys Office Supply	21.84	
		\$41,763.43
ELECTRIC FUND		
First Bankcard Center	25.44	
Payroll Fund	12,554.01	
Payroll Fund-Soc. Security	960.38	
Recorder of Deeds	5.06	
U S Post Office	500.00	
William Cruz	79.20	
Carolann E. Moody	1.12	
Gina M. Wiand	11.13	
Payroll Fund	13,725.87	
Payroll Fund-Soc. Security	1,050.03	
Penna Power & Light	201,013.78	
Recorder of Deeds	5.06	
William Cruz	79.20	
Accurate Calibration Service	1,000.00	
All-Phase Electric Supply, Co.	252.80	
Allegheny Electric	2,023.82	
American Public Power	1,807.88	
Aramark Uniform Services	295.24	
Automotive Service Inc.	16.82	

Barley Snyder	2,123.03
Berks-Mont Newspaper Inc.	30.42
Bohrer-Reagon Co.	974.06
Burlington Safety	2,268.75
Carlos R. Leffler Inc.	2,340.32
CDW Government Inc.	79.32
D & E	490.96
Decisionone Corp.	109.37
Deluxe Business Checks	41.38
Department of Revenue	5,550.90
DeTurk Hardware	13.46
Electric Revenue Fund	4,824.34
Fegely Signs	46.88
First Bankcard Center	137.75
Grainger	335.21
Hometown Utilicom	219.37
Hughes Supply Inc.	5,248.00
Ikon Office Solutions	141.51
Industrial Appraisal Co.	21.92
Insurance Reserve Fund	5,329.00
Kantner's Tire Service Inc.	114.08
Kunkel's Saw & Mower Inc.	4.00
Kutztown Auto Parts, Inc.	11.99
MacMillan Oil Co.	23.83
Met-Ed	24,592.68
Neopost	58.65
Nextel Communications	60.71
Nolt's Welding	7.00
Northern Safety Co. Inc.	65.21
Quad Three Group	1,560.00
Reading Eagle Company	39.53
Reliable Equipment Co.	932.89
Ryly's Service Center	7.00
Set Rite Copr.	776.00
Sovereign Bank	179.30
Susquehanna Municipal	2,321.73
Tel-A-Talk Tas Inc.	18.00
The Rhode Agency Inc.	74.55
Tyco Fire & Security	37.82
V W Eimicke Assoc.	10.20
W S Reichenbach & Son	167.92

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WESCO Distribution Inc.	5,657.03	
Wheatley & Ranquist	157.96	
William Gow	2.70	
Wrigleys Office Supply	<u>52.01</u>	
		\$302,665.58

SEWER FUND

Payroll Fund	9,163.73
Payroll Fund-Soc. Security	701.02
Recorder of Deeds	5.06
Carolann E Moody	1.12
Gina M. Wiand	11.13
Payroll Fund	9,436.19
Payroll Fund - Soc. Security	721.86
Recorder of Deeds	5.06
All-Phase Electric Supply Co.	16.00
Aqua Dynamic Systems Inc.	90.00
Aramark Uniform Services	119.76
Automotive Services Inc.	16.84
Barley Snyder	2,427.03
Berks-Mont Newspaper Inc.	30.42
CDW Government Inc.	79.32
Controlex Service Corp.	4,030.00
D & E	31.14
Decisionone Corp.	62.50
DeTurk Hardware	1.18
Ehrlich	37.00
Electric Revenue Fund	4,238.34
Fegely Signs	46.88
First Bankcard Center	137.75
Hach Company	67.85
Industrial Appraisal Co.	382.49
Insurance Reserve Fund	3,997.00
John R. Young & Co.	148.50
Keystone Engineering	525.00
Kutztown Auto Parts Inc.	47.11
Levco	1,691.25
LRM Inc.	404.00
MacMillan Oil Co.	23.86
Main Pool & Chemical Co.	786.25
Neopost	38.25
Nextel Communications	45.56

Nolt's Welding	2.00
Northern Safety Co. Inc.	13.00
PA One Call System Inc.	9.10
QC Laboratories Inc.	940.00
Reading Eagle Company	39.53
Sovereign Bank	67.23
Spotts Stevens & McCoy	1,985.28
Suburban Propane Office	1,213.59
Susquehanna Municipal	1,859.73
Tel-A-Talk Tas Inc.	18.00
The Rhode Agency Inc.	256.92
Tyco Fire & Security	37.82
USA Blue Book	61.66
V W Eimicke Assoc.	10.20
W S Reichenbach & Son	73.87
Waste Management	26.50
Wrigley's Office Supply	<u>21.84</u>

\$46,202.72

TELECOMMUNICATIONS FUND

Bob Miller	187.50
Payroll Fund	8,633.24
Payroll Fund-Soc. Sec.	660.44
Recorder of Deeds	5.06
U S Post Office	250.00
Carolann E Moody	1.12
Frank P. Caruso	46.53
Gina M. Wiand	45.95
Payroll Fund	7,731.53
Payroll Fund-Soc. Sec.	591.46
Recorder of Deeds	5.06
Automotive Service Inc.	8.50
Barley Snyder	3,813.53
Berks-Mont Newspaper Inc.	30.42
CDW Government Inc.	79.32
D & E	17.69
D & E Communications	3,307.00
D & E Communications Inc.	1,385.60
Deluxe Business Checks	41.38
DeTurk Hardware	5.26
Electric Revenue Fund	754.89
Fegely Signs	187.50

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First Bankcard Center	137.75	
Hometown Utilicom	337.37	
Insurance Reserve Fund	999.00	
Jed Starner	19.05	
Kutztown Auto Parts Inc.	11.94	
Lifetime Entertainment	212.75	
National Cable	6,674.92	
Neopost	35.70	
Nextel Communications	45.56	
Nolt's Welding	2.00	
Northern Safety Co. Inc.	12.99	
Peco/Telcove - ALTW	1,989.44	
Radio Shack	14.99	
Reading Eagle Company	39.53	
Solarwinds.Net Inc.	655.00	
Sovereign Bank	67.23	
Susquehanna Municipal	1,320.71	
Tel-A-Talk Tas Inc.	18.00	
Telcove	2,003.00	
Terry Hinkle	14.19	
The Rhode Agency Inc.	32.22	
TV Guide Network Inc.	347.55	
Tyco Fire & Security	37.80	
USA Network	203.00	
V W Eimicke Assoc Inc.	10.20	
Wrigley's Office Supply	<u>21.88</u>	
		\$43,052.75
FIRE TAX PROTECTION FUND		
Engle-Hambright	\$4.68	
The Rhode Agency Inc.	<u>3.33</u>	
		\$8.01
RECREATION TAX FUND		
Engle-Hambright	\$11.88	
The Rhode Agency Inc.	<u>3.09</u>	
		\$14.97
ROAD TAX FUND		
Engle-Hambright	\$11.88	
The Rhode Agency Inc.	<u>3.12</u>	
		\$15.00
GO BOND-2-'02 SERIES/WATER		
Michael F.Ronca & Sons	\$155,465.65	

Barley Snyder	82.48	
Keystone Engineering	10,480.00	
Nutech Control Products	2,168.00	
Spotts Stevens & McCoy	<u>25,626.68</u>	

\$193,822.81

WATER CAPIAL OUTLAY FUND

Radio Shack	\$11.46	
Dennis G. Follweiler	<u>149.42</u>	

\$160.88

ELECTRIC CAPITAL OUTLAY FUND

Dennis G. Follweiler	\$149.43	
Radio Shack	<u>11.46</u>	

\$160.89

SEWER CAPITAL OUTLAY FUND

Dennis G. Follweiler	\$149.42	
Radio Shack	<u>11.44</u>	

\$160.86

TELECOM CAP OUTLAY FUND

Corning Cable Systems	\$933.30	
DeTurk Hardware	7.61	
Etronics.com	2,146.32	
Fedex	540.15	
First Bankcard Center	771.89	
National Cable	656.66	
Radio Shack	96.89	
Toner Cable Equip. Inc.	365.57	
TVC Incorporated	89.58	
Weaver's Hardware	32.34	
Wire Master of PA	<u>1,400.00</u>	

\$7,040.31

TELECOM PROJECT RETAINAGE

Atlantic Engineering	<u>\$304,876.11</u>	
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\$304,876.11

INSURANCE RESERVE FUND

BCMHIPG	\$43,750.23	
Ceridian Benefits Service	93.00	
Fort Dearborn Life	563.45	
Life Investors Insurance	<u>160.59</u>	

\$44,567.27

POLICE TRAINING FUND

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Payroll Fund	\$44.85	
Taser International	<u>195.00</u>	\$239.85
EMPLOYEES ACTIVITY FUND		
First Bankcard Center	\$545.57	
Lindee Gift Baskets	<u>42.95</u>	\$588.52

And Be It Further Resolved, To authorize the Finance Committee to review and approve the payment of April, 2004 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 20, 2004 meeting. Passed by unanimous vote.

At 7:35 p.m., Council President Crooker called to order a local agency hearing to determine whether or not to uphold the mayor's suspension of Police Chief Theodore R. Cole. Solicitor Keith Mooney gave an overview of the ground rules.

Mayor Marino was sworn in and stated that he would be representing himself. The mayor asked Mr. Mooney if he was a neutral party, and Mr. Mooney responded positively.

The mayor read from his letter of suspension to Chief Cole. Council did not have questions for the mayor, so Chief Cole's attorney, James Gavin, questioned him. Mr. Gavin wanted to make sure he understood why the Chief was suspended. He asked the mayor if it was because of the chief's letter dated February 12, 2004. The mayor responded that it was one particular statement in that memo: "Mayor Marino has verbally harassed several members of the department, resulting in complaints to both Jaymes Vettraino and myself." The mayor said that this statement is a fabrication and

that is why he suspended the chief. He also stated that Chief Cole taking a police car, his badge and a gun home with him had nothing to do with his suspension.

Chief Cole was sworn in and questioned by Mr. Gavin.

Mr. Gavin asked the chief if he thought that any of his conduct was unbecoming an officer, and he responded in the negative. Mr. Gavin then asked the chief if he understood that he was suspended because of the statement in his memo to Council President Crooker dated February 12, 2004, and he responded in the affirmative. Mr. Gavin showed Chief Cole the memo. He recognized it as his memo and it was submitted as Exhibit 1. Mr. Gavin asked the chief to read the memo in its entirety, and he did. Chief Cole then explained to Council that he felt he had to issue this memo because he has been harassed for several years by the mayor, and now the harassment has extended beyond him to other members of the department. When asked who else in the department registered complaints, Chief Cole responded that Officer James Hirko and department secretary Kris Polster have both complained to him.

Chief Cole described the complaint from Officer Hirko by saying that the mayor threatened his position in the department after Officer Hirko refused to give him information he requested on an investigation. Mr. Gavin showed Chief Cole a document that he recognized as Officer Hirko's memo to Mr. Vettraino, and it was labeled Exhibit 2. Chief Cole stated that Officer Hirko's memo was sent to Mr. Vettraino before his own memo was sent to Council President Crooker.

Next, Chief Cole described the complaint from Kris Polster and said that one problem, which occurred in July, 2003, was that the mayor asked Ms. Polster to call the chief at home and order him to clear out of his office. The second incident, which

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occurred in February, 2004, prior to the memo being sent to President Crooker, asking Ms. Polster to distribute information that she was uncomfortable with and that the chief thought would violate the Criminal History Act. In response to that, Chief Cole sent a memo to Mayor Marino advising him that this would be in violation of the Criminal History Act and he also issued a memo to Ms. Polster telling her not to distribute the information requested by the mayor.

Mr. Gavin asked the chief if he had complaints from Officer Hirko and Ms. Polster before he wrote his memo to Council President Crooker and he responded positively. Mr. Gavin then asked the chief if the statement from his memo that is in question is true, and he responded in the affirmative. Mr. Gavin also asked the chief if anything relating to that statement is conduct unbecoming an officer, and he responded negatively. Mr. Mooney asked Mr. Gavin if he would like Exhibits 1 and 2 entered into evidence, and he responded that he would.

Mr. Mooney asked if Council had questions for the chief, and Mr. Mantz said that he had several questions.

Mr. Mantz asked if his memo, and specifically the statement in question, affected the morale of the department. Chief Cole responded that it did not. Mr. Mantz then asked if it adversely affected the efficiency of the police force. Chief Cole responded in the negative. Mr. Mantz also asked if the memo intended to destroy the public's confidence in the operation of municipal services in any way. Chief Cole responded negatively.

Mr. Mooney asked the mayor if he had any questions for the chief, and he said that he did. Mayor Marino asked why the chief didn't produce the two people who

complained about him. Chief Cole responded that he didn't feel it was appropriate. The mayor then asked why he didn't bring them to the hearing. The chief said he didn't think it was necessary.

Mr. Mantz raised a point of order that the mayor was being argumentative. Mr. Mooney directed the mayor to ask questions, not make statements.

Mayor Marino called Council President Crooker to be sworn in.

The mayor asked President Crooker if the chief told her that it wasn't a police officer that complained. She responded that she did not recall.

Mayor Marino called Jaymes Vettraino to be sworn in.

The mayor asked Mr. Vettraino how many complaints of harassment he has against him. Mr. Vettraino responded that he had a meeting with Officer Hirko about his concerns.

Mr. Mantz asked Mr. Vettraino if he believed that Chief Cole's conduct adversely affected the morale or the efficiency of the police department. Mr. Vettraino answered in the negative because it was a private memo to Council and himself. Mr. Mantz then asked Mr. Vettraino if he thought the memo was intended to destroy the public's respect for the municipal employees of Kutztown or the public's confidence in the operation and provision of municipal services by the employees of the Borough. Mr. Vettraino responded in the negative.

Mayor Marino rested his case by saying that Council should not lift the suspension and that the Chief Cole should be fired.

Mr. Gavin gave his summation and concluded that the burden of proof is on the mayor to prove that Chief Cole engaged in conduct unbecoming an officer. He explained

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that conduct unbecoming an officer is defined as conduct tending to destroy public respect and confidence in the operation of municipal services or affecting the morale and efficiency of the police department.

Mr. Gavin further stated that the chief established that the statement from his memo that is in question was not a fabrication and that the chief's suspension should be lifted and that he should receive back pay. In addition, Mr. Gavin said that Mayor Marino is the one who has engaged in conduct unbecoming and bringing disrespect to the police department.

Mr. Mooney recessed the hearing at 8:12 p.m. for Council to deliberate. President Crooker called the hearing back to order at 8:35 p.m. A motion was made by Mr. Mantz, seconded by Mr. Seyler, Resolved, To overturn the mayor's suspension and reinstate the chief of police with back pay. Passed by unanimous vote. The audience applauded.

Mayor Marino asked if he could make a statement, and President Crooker said that he made enough statements already. The hearing concluded and the regular meeting reconvened at 8:38 p.m.

Under Borough Planning Commission, Mr. Kern reported that the Planning Commission is recommending that Council need not intervene in Zoning Appeals Z-04-01, Z-04-02 and Z-04-03. Mr. Seyler concurred.

A motion was made by Mr. Seyler, seconded by Mr. Mantz, Resolved, To approve the recommendation of the Borough Planning Commission regarding Sacony Commons Phase 2 modifications to §§195.17(A) and 195.42(C) of Chapter 195 of the

Kutztown Code, as required by the DEP and as requested by RETTEW Associates, Inc.
Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Schwoyer, Resolved, To approve the recommendation of the Borough Planning Commission regarding a waiver for a storm water management report for a temporary dining pavilion to be erected by Kutztown University as provided for in Appendix A of Chapter 189, Stormwater Management, of the Kutztown Code. Passed by unanimous vote.

Tim Seyler gave a brief report on the Joint Comprehensive Plan, and stated that the next meeting will be held on Wednesday, April 14, 2004 at 7:30 p.m. at Kutztown Elementary School.

Under Public Relations Committee, a motion was made by Mr. Seyler, seconded by Mr. Schwoyer, Resolved, To change the community newsletter format from one annual 16-page newsletter to two eight-page newsletters per year, at an approximate increased cost of \$2,107.00, excluding postage. Passed by unanimous vote.

A motion was made by Mr. Schwoyer, seconded by Mr. Seyler, Resolved, To allow the Kutztown University Shuttle Bus to provide free transportation to residents on a trial basis from March 22, 2004 through April 8, 2004, between the hours of 7:30 a.m. and 3:30 p.m., the same schedule as the downtown loop for university students. Passed by unanimous vote.

President Crooker read a portion of the following declaration for Building Safety Week in the Borough:

Whereas, building safety affects many aspects of American life. Because of building safety code enforcement, we enjoy the comfort of structures that are safe and sound; and,

Whereas, building safety and fire prevention officials including architects, engineers, and others in the construction industry, work with citizens to address building safety and fire

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prevention concerns everyday, and to develop and enforce the codes that safeguard Americans in the buildings where we live, work, play and learn; and,

Whereas, The Borough Of Kutztown adopts the International Codes, the most widely adopted building safety and fire prevention codes in the nation, are used by most U.S. cities, counties and states; and,

Whereas, building safety codes provide safeguards to protect the public from natural disasters that can occur all across the country, such as snowstorms, hurricanes, tornadoes, wildland fires, and earthquakes. Building safety codes also work to minimize other potential building catastrophes; and,

Whereas, Building Safety Week, is an opportunity to educate the public. It is a perfect time to increase public awareness of the role building safety and fire prevention officials, local and state building departments, and federal agencies play in the first line of defense to protect the public; and,

Whereas, this year's theme, "You Can Be a Part of Building Safety Week," encourages all Americans to raise our awareness of building safety, and to take appropriate steps to ensure that the places where we live, work, play and learn are safe. Countless lives have been saved because of the building safety codes adopted and enforced by local and state agencies; and,

Whereas, this year, as we observe Building Safety Week, I ask all Americans to consider projects to improve building safety at home and in the community, and to recognize the local building safety and fire prevention officials and the important role that they play in public safety.

Now, therefore, I do hereby proclaim April 4 through April 10, 2004, as Building Safety Week in **The Borough of Kutztown**. I urge all people to participate in Building Safety Week activities and to commence efforts to improve building safety.

Mr. Seyler noted that the Public Hearing regarding the zoning amendments, which was previously scheduled for this meeting, has been rescheduled for the April 20, 2004 Council meeting.

Under Police Committee, Chief Cole reported on fines collected:

District Justice Greth	January, 2004	\$10,045.48
Clerk of Common Pleas	January, 2004	\$453.67
Secretary's Office	February, 2004	\$5,330.00
Commonwealth of PA	July 1 – Dec 31, 2003	\$1,845.36

President Crooker welcomed Chief Cole back and thanked Bob Gately for taking on the role as acting chief while Chief Cole was suspended.

Mr. Vettraino reported that the bids for a 2004 or newer police vehicle were received today and have not yet been reviewed. Information will be reported at the April 20, 2004 Council meeting.

Under Public Works Committee, Mr. Follweiler was not present, and both Mr. Seyler and Mr. Schwoyer had nothing to report.

Under Personnel Committee, a discussion ensued regarding advertising for lifeguards and swim coaches. John Schmoyer explained that the Borough has not advertised for these positions for a few years and just wanted to give other people an opportunity to apply. A motion was made by Mr. Mantz, seconded by Mr. Seyler, Resolved, To rehire 2002 and 2003 seasonal pool and park employees; and to advertise and hire, if necessary, for lifeguards and swim coaches. Passed by unanimous vote.

A motion was made by Mr. Mantz, seconded by Mr. Seyler, Resolved, To approve the following Resolution adopting the Compensatory Time Policy for Full-Time Exempt Salaried Employees:

RESOLUTION NO. 7-2004

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, ADOPTING THE BOROUGH OF KUTZTOWN COMPENSATORY TIME POLICY FOR FULL-TIME EXEMPT SALARIED EMPLOYEES, IN FORM AS ATTACHED.

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

WHEREAS, it is the intent of the Borough to recognize the commitment and dedication of those full-time exempt salaried employees whose work week extends beyond 40 hours.

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED by the Council of the Borough of Kutztown as follows:

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RESOLVED, that the Council of the Borough herewith adopts the Borough of Kutztown Compensatory Time Policy For Full-Time Exempt Salaried Employees, in form as attached, effective retroactively to January 1, 2004.

This Resolution supersedes any other Resolution or parts of Resolutions inconsistent with this Resolution.

DULY ADOPTED AS A RESOLUTION this 16th day of March, 2004, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in a lawful session duly assembled.

Passed by unanimous vote.

A motion was made by Mr. Mantz, seconded by Mr. Schwoyer, Resolved,

To enact and ordain the following Ordinance:

ORDINANCE NO. 3-2004

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF KUTZTOWN, CHAPTER 33, ENTITLED "PENSIONS", ARTICLE II, ENTITLED "POLICE PENSIONS", BY ESTABLISHING AND CONTINUING A POLICE PENSION PLAN PURSUANT TO ACT 600 OF 1956, 53 P.S. 761 *ET SEQ.*, AND PROVIDING FOR ADMINISTRATION, ELIGIBILITY FOR BENEFITS, SOURCE AND ALLOCATION OF FUNDS, CALCULATION OF RETIREMENT BENEFITS, RETURN OF PARTICIPANT CONTRIBUTIONS, VESTING TERMS OF RETIREMENT BENEFITS, DISABILITY RETIREMENT, DEATH BENEFIT, AND OTHER MATTERS ASSOCIATED WITH THE ESTABLISHMENT AND CONTINUATION OF THE POLICE PENSION PLAN, PURSUANT TO THE TERMS AND CONDITIONS OF THE ATTACHED AMENDMENT AND RESTATEMENT OF THE BOROUGH OF KUTZTOWN POLICE PENSION PLAN AND THE ATTACHED TRUST AGREEMENT.

Passed by unanimous vote.

A motion was made by Mr. Mantz, seconded by Mr. Schwoyer, Resolved, To rescind the motion passed at the February 17, 2004 Council meeting authorizing the appropriate Borough officials to execute the Agreement by and between the Borough of

Kutztown and AFSCME, District Council 88, effective January 1, 2004 through December 31, 2008. Passed by unanimous vote.

A motion was made by Mr. Mantz, seconded by Mr. Seyler, Resolved, To ratify the hiring of Helen McComb, of Allentown, PA, as an Administrative Assistant/Payroll Clerk at a rate of \$15 per hour. Ms. McComb started her job today. Passed by unanimous vote.

Under Electric and Telecom Committee, Mr. Schwoyer had nothing to report.

Under Water and Wastewater Committee, president Crooker reported that Mr. Eidle is recovering and doing well.

A motion was made by Mrs. Crooker, seconded by Mr. Seyler, Resolved, To authorize the appropriate Borough officials to execute the Certificate of Substantial Completion for the Water Treatment Plant. Mr. Mooney noted that Mrs. Crooker cannot make a motion, so Mrs. Crooker withdrew her motion and Mr. Seyler withdrew his seconding of the motion.

A motion was made by Mr. Schwoyer, seconded by Mr. Mantz, Resolved, To authorize the appropriate Borough officials to execute the Certificate of Substantial Completion for the Water Treatment Plant. Passed by unanimous vote.

Mr. Vettraino said that the spring newsletter will have an announcement for the Water Treatment Plant open house.

Under Finance and Technology Committee, a motion was made by Mr. Mantz, seconded by Mr. Seyler, Resolved, To authorize the Borough Manager and Director of Information Technologies to select a software vendor within the parameters of the budget. Passed by unanimous vote.

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A motion was made by Mr. Mantz, seconded by Mr. Seyler, Resolved, To approve the retention of Baller Herbst Law Group P.C., Washington, D.C., as telecommunications-specific counsel, replacing Cinnamon Mueller, Chicago, Illinois. Passed by unanimous vote.

A motion was made by Mr. Mantz, seconded by Mr. Seyler, Resolved, To authorize the drafting of a carefully prepared, well crafted Ordinance defining the duties of each of our police officers and even defining what is meant by the term faithful performance of the prescribed duties of those prescribed duties. Passed by unanimous vote.

Mr. Mantz explained that his reasoning behind proposing the drafting of this Ordinance is because the mayor of this community has unrestricted, discretionary authority to direct the police department. He also stated that Council can control this otherwise unbridled discretionary authority with the passage of an Ordinance, detailing or prescribing the duties of our police officers.

Under Miscellaneous, a motion was made by Mr. Seyler, seconded by Mr. Mantz, Resolved, To approve the following Resolution adopting the schedules and procedures for the disposition of records as established in the Pennsylvania Municipal Records Manual:

RESOLUTION NO. 8-2004

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA TO DECLARE ITS INTENT TO FOLLOW THE SCHEDULES AND PROCEDURES FOR DISPOSITION OF RECORDS AS SET FORTH IN THE MUNICIPAL RECORDS MANUAL ISSUED FOR THE LOCAL GOVERNMENT RECORDS COMMITTEE BY THE PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION, DIVISION OF ARCHIVAL AND

RECORDS MANAGEMENT SERVICES, HARRISBURG, PA,
APPROVED ON JULY 16, 1993.

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

WHEREAS, a Local Government Records Committee was created by Act 428 of 12968 and empowered thereby to make rules and regulations for records disposition; and

WHEREAS, the Municipal Records Manual was approved by said Committee on July 16, 1993; and

WHEREAS, the Borough of Kutztown desires to dispose of records according to statutory requirements; and

WHEREAS, the Borough of Kutztown believes it is prudent to immediately begin a process to follow the schedules and procedures for disposition of records as set forth in the Municipal Records Manual.

NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED by the Council of the Borough of Kutztown, that it intends to follow the schedules and procedures for disposition of records as set forth in the Municipal Records Manual approved on July 16, 1993.

This Resolution supersedes any other Resolution or parts of Resolutions inconsistent with this Resolution.

DULY ADOPTED AS A RESOLUTION this 16th day of March, 2004, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in a lawful session duly assembled.

Passed by unanimous vote.

And Be It Further Resolved, To adjourn the Council Meeting upon vote. Passed by unanimous vote. The meeting ended at 9:17 p.m.

Prepared and Attested by: Gina M. Wiand
Assistant Borough Secretary