



December 7, 2004  
Kutztown, PA

A special 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 Crooker, with other members present: Mr. Malcolm A. Eidle, Mr. Carl W. Mantz, Mr. James W. Schwoyer, Mr. Archie L. Follweiler, Jr., Mr. Edwin Seyler, and Mayor Gennaro A. Marino. Mr. Timothy G. Dietrich, Borough Solicitor; Mr. Jaymes A. Vettraino, Borough Manager/Treasurer; Russell Samilo, Director of Finance/Assistant Treasurer; Theodore R. Cole, Chief of Police; Bonnie Bray, Borough Secretary/Human Relations Director; Mr. Brendan Strasser, member of the Borough Planning Commission; Dave Remaley, member of the Kutztown Zoning Hearing Board; Richard Orwig and Jason Barkley, representing the Berks Property Rights Association, Inc.; Mr. Frank J. Leber, Bond Counsel, representing Rhoads & Sinon, LLP, Harrisburg, Pennsylvania; Mr. Scott Kramer, representing RBC Dain Rauscher, Lancaster, Pennsylvania, the underwriters for the bond issuance; and William Fox, resident of Kutztown were also present.

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

Mr. Frank J. Leber and Mr. Scott Kramer addressed Council regarding refunding a portion of the G. O. Bonds, Series of 2001 and a portion of the G. O. Bonds, Series of 2002.

Mr. Kramer presented the Bond Purchase Agreement, G. O. Bonds, Series of 2005, between RBC Dain Rauscher and the Borough of Kutztown in the aggregate principal amount of \$3,905,000.00. He reviewed the composition of the bond issue, the



portions of the G. O. Bonds, Series of 2001, and the G. O. Bonds, Series of 2002, to be refunded. Mr. Kramer reviewed the interest rates of the Coupons, ranging from 2 percent to 4.375 percent, with an average interest rate of 3.93 percent. Comparing the existing debt service to the new debt service, he pointed out that the Borough will realize a savings of \$68,524.79 or \$75,326.70 with the accrued interest and contingency amount. Mr. Kramer examined the pricing summary with Council, which showed a total purchase price of \$3,844,35.33, inclusive of the reoffering discount of \$31,011.20, the underwriter's discount of \$31,240.00, and the accrued interest of \$1,608.53. Mr. Schwoyer wanted to know when the Borough will realize the \$75,000.00 savings. Mr. Kramer responded that the entire savings will be realized in the first year.

Mr. Leber presented Council with the final proposed enabling Ordinance which accepts the bond purchase agreement with RBC Dain Rauscher and authorizes the issuance of the bonds, as described above. He summarized the contents of the proposed Ordinance, from the preamble to the Maturity Schedule and Form of Bond. He advised that the proposed Ordinance was appropriately advertised in the Reading Eagle in accordance with the Pennsylvania Local Government Unit Debt Act. Copies of the proposed Ordinance were furnished to Council in advance of this meeting. Mr. Leber provided the Proofs of Publication of Notice in Reading Eagle for the proposed Ordinance and for tonight's meeting. A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To enact the following Ordinance:

ORDINANCE NO. 25-2004

AN ORDINANCE  
OF THE COUNCIL OF THIS BOROUGH INCURRING NONELECTORAL DEBT TO  
BE EVIDENCED BY A SERIES OF GENERAL OBLIGATION BONDS IN THE  
AGGREGATE PRINCIPAL AMOUNT OF THREE MILLION NINE HUNDRED FIVE



THOUSAND DOLLARS (\$3,905,000), PURSUANT TO THE ACT OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA, KNOWN AS THE LOCAL GOVERNMENT UNIT DEBT ACT, TO PROVIDE FUNDS FOR AND TOWARD A REFUNDING PROJECT THAT CONSISTS OF: (A) THE ADVANCE REFUNDING OF A PORTION OF THIS BOROUGH'S GENERAL OBLIGATION BONDS, SERIES OF 2001; (B) THE ADVANCE REFUNDING OF A PORTION OF THIS BOROUGH'S GENERAL OBLIGATION BONDS, SERIES OF 2002; AND (C) PAYING COSTS, FEES AND EXPENSES WITH RESPECT TO THE FOREGOING PURPOSES AND TO THE FINANCING; ACCEPTING A CERTAIN PROPOSAL FOR THE PURCHASE OF SUCH GENERAL OBLIGATION BONDS, AT PRIVATE SALE BY NEGOTIATION; SETTING FORTH THE TERMS AND SUBSTANTIAL FORM OF SUCH GENERAL OBLIGATION BONDS AND AUTHORIZING EXECUTION, AUTHENTICATION AND DELIVERY THEREOF; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THIS BOROUGH IN SUPPORT OF SUCH GENERAL OBLIGATION BONDS; APPOINTING A PAYING AGENT AND A SINKING FUND DEPOSITORY IN CONNECTION WITH SUCH GENERAL OBLIGATION BONDS; SETTING FORTH CERTAIN COVENANTS AND REPRESENTATIONS RELATING TO THE FEDERAL INCOME TAX STATUS OF THE INTEREST TO BE PAID ON SUCH GENERAL OBLIGATION BONDS; PROVIDING FOR THE REDEMPTION OF SUCH REFUNDED PORTION OF SAID GENERAL OBLIGATION BONDS, SERIES OF 2001, AND THE REDEMPTION OF SUCH REFUNDED PORTION OF SAID GENERAL OBLIGATION BONDS, SERIES OF 2002, IN ACCORDANCE WITH THE RIGHTS AND PRIVILEGES RESERVED TO THIS BOROUGH; AUTHORIZING AND DIRECTING SPECIFIED OFFICERS OF THIS BOROUGH TO TAKE CERTAIN ACTIONS AND TO EXECUTE CERTAIN DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH GENERAL OBLIGATION BONDS AND THE REDEMPTION OF SUCH REFUNDED PORTION OF SAID GENERAL OBLIGATION BONDS, SERIES OF 2001, AND THE REDEMPTION OF SUCH REFUNDED PORTION OF SAID GENERAL OBLIGATION BONDS, SERIES OF 2002; AUTHORIZING A 2001 BOND RETIREMENT AGREEMENT AND A 2002 BOND RETIREMENT AGREEMENT AND PROVIDING FOR EXECUTION AND DELIVERY THEREOF; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INSOFAR AS THE SAME SHALL BE INCONSISTENT HEREWITH.

The following vote was **cast**: Mrs. Crooker, Aye; Mr. Schwoyer, Aye; Mr. Seyler, Aye; Mr. Mantz, Aye; Mr. Follweiler, Aye; and Mr. Eidle, Aye. Passed by unanimous vote.

Mr. Vettraino presented three items off of the agenda for Council's consideration. First, he received an email from Julia Gruen, Executive Director of the Keith Haring Foundation, requesting the loan of the Keith Haring work, "Figure Balancing on Dog,"



which is displayed in the Kutztown Park. Mr. Vettraino explained that the work would be exhibited at Deitch Projects gallery space in New York City. All costs and arrangements for the transportation, de-installation, reinstallation and insurance will be covered by Deitch Projects. The group even offered to touch up the piece while in New York. Mr. Vettraino further indicated that there is a slim possibility that the artwork would not be loaned if a similar piece is received from Italy. A motion was made by Mr. Eidle, seconded by Mr. Follweiler, Resolved, To loan the Keith Haring work, "Figure Balancing on Dog," if needed, to the Keith Haring Foundation for an exhibition at the Deitch Projects gallery space at 18 Wooster Street, New York, New York, 10013, from January 11 through February 26, 2005, with the understanding that the Deitch Projects will cover all costs and arrangements for the transportation, de-installation, reinstallation and insurance. Mrs. Crooker encouraged Council Members to attend the opening in New York, if possible. Passed by unanimous vote.

Mr. Vettraino indicated that the two remaining matters involving the Chapter 135 litigation and a uniformed employee wage issue needed to be discussed in Executive Session. President Crooker called for an Execution Session at 7:54 p.m. to discuss the Chapter 135 litigation matter and the uniformed employee wage issue. The Executive Session ended, and the meeting reconvened at 8:21 p.m.

A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To compensate Brian Klouser, who resigned as a full-time patrol officer on November 28, 2004, and who was hired as a part-time patrol officer, effective November 29, 2004, at the full-time patrol officer pay rate when he is performing follow-up duties pertaining to his full-time position. Passed by unanimous vote.



In regard to the Chapter 135 litigation matter, Mr. Vettraino reported that Council members agreed that the litigation management committee should continue discussions with the Berks Property Rights Association representatives. Mr. Vettraino advised that an Appeal is scheduled for December 9, 2004, at 7:00 p.m., and that there is a possibility the Appeal may not take place. He will notify Council members if the Appeal is continued.

There being no further business, a motion was made by Mr. Eidle, seconded by Mr. Schwoyer, Resolved, To adjourn the Council Meeting at 8:25 p.m. Passed by unanimous vote.

Prepared and  
Attested by: Bonnie Bray  
Secretary