

February 15, 2005  
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 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; Mr. Dale Kratzer, representing the Borough's planning and water/wastewater engineering firm of Spotts, Stevens, & McCoy, Inc.; Mr. Walter Hess, Superintendent of Water and Wastewater; Mr. Theodore R. Cole, Chief of Police; Mr. Richard J. Diehm, Director of Planning and Zoning; Mr. Frank P. Caruso, Director of Information Technologies; Mr. Russell Samilo, Finance Director and Assistant Treasurer; John E. P. Schmoyer, Seasonal Recreation Director; Bonnie Bray, Borough Secretary/Human Relations Director; Mr. Brendan Strasser, member of the Borough Planning Commission; Philip Breeze, Director of Public Relations at Kutztown University; Mark Emerick, Christine M. Henry, Heather Guenther, Zach Lonergan, Aaran Savadge, Danielle Almond, Katie Jordan, Lauren Petrille, Cory Mull, E. Green, Deedra Goldsmith, Christy Schroeder and Shannon Zackman, all Kutztown University students; Residents Robert and Joan Gangewere, Mark Gangewere, Kenneth K. Kern, Ruth Kern, Carl Lobb, Donald and Amy Bray, Bill and Dolly Fox, Fay A. Werley, Evelyn S. Adam, Roger Hassler, Gregory Heid, Sandy Green, Craig Koller, Chad Flyte, and Jeff DeTurk; Property owner Mark Blose; Dave Remaley of the Zoning Hearing

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Board; Ed Vicic, Borough Intern; Mike Trask, reporter for the Reading Eagle; and Nikki M. Murry, reporter for The Kutztown Area PATRIOT 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.

With reference to the Consent Agenda, Mrs. Crooker requested that the item restricting all food and beverage sales at the swimming pool facility to the contracted concessionaire be tabled and redirected to the Public Works Committee for further discussion. Mr. Follweiler corrected the dates for the Kutztown Cougars Youth Football and Cheerleading organization to use the multi-purpose field and to lease the Babe Ruth Concession Stand as follows: August 1 through October 30, 2005. Mr. Mantz asked that Page 16957 of the January 18, 2005 Council meeting minutes be corrected to insert at the bottom of the page the following comment he made: "Contrary to his repeated protests, this Council does not seek and, indeed, has never sought to abridge the Mayor's exercise of his rightful statutory powers. Rather, it has only sought to curtail or eliminate his continual abusive and hurtful exercise of those powers." A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To approve the following Consent Agenda, as corrected:

Review and accept the Minutes of the December 15, 2004, December 21, 2004, January 11, 2005, January 18, 2005 and February 1, 2005 Council Meetings.

Review and accept the Borough Code Office Report for January, 2005.

Review and accept the Borough Code Office 2004 Summary Report and Comparison with 2003.

Review and accept the Zoning Hearing Board 2004 Summary of Appeals.

Approve the Kutztown Middle School's Future City Team to give a presentation at the March 15 Council meeting.

Approve a donation to the Berks County Conservation District in the amount of \$15.00.

Approve an internship for Michael E. Mauro with the Kutztown Police Department.

Approve hiring Steve Hudak as the Swimming Pool Manager for the 2005 season at a salary of \$7,841.25 and Lisa Reilly as the Assistant Swimming Pool Manager for the 2005 season at a salary of \$6,795.75.

Award the 2005-2006 Pool and Park Concession Stand Leases to Tracy Arnold.

Approve the request of the Kutztown Lady Cougars Softball Booster Club to set up a small concession stand in the Kutztown Borough Park during softball games.

Approve the request of the KAHS Athletic Department to use the senior and junior softball fields, to use the Timothy M. Breidegam Field, and to place portable toilets in the Kutztown Borough Park.

Approve the request of the KYAA to use the various fields, as per the request from Susan E. McLellan, Association Secretary.

Approve the request of the Kutztown Cougars Youth Football and Cheerleading organization to use the multi-purpose field and to lease the Babe Ruth Concession Stand from August 1 through October 30, 2005.

Approve the request from Synergy, Inc., to use the two softball fields in the Park for two June and two July games.

Accept the recommendation of the Public Works Committee that the 2005 swimming pool rates remain the same as 2004.

Take action to delay the effective date of the KF electric rate, as established in Resolution No. 4-2005, until the bill due March 20, 2005. The reason for the delay is due to a delay in receiving off-peak pricing information from the Borough's energy supplier

Authorize the appropriate Borough officials to draft and execute a letter of understanding with the foundry to establish that future payments of electric service bills will be made through ACH (Automated Clearing House) provisions.

Review and consider adopting changes to the Borough's Surety Bonds and Crime Insurance coverage as prepared in the Borough Manager's memo dated September 1, 2004.

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Ratify approval for the payment of bills and necessary transfers of funds which have been provided to Borough Council as summarized below:

|                               |              |
|-------------------------------|--------------|
| General Fund                  | \$123,574.24 |
| Refuse and Recycling Fund     | \$18,664.90  |
| Fire Protection Tax Fund      | \$54.44      |
| Recreation Tax Fund           | \$50.33      |
| Road Tax Fund                 | \$50.55      |
| Water Fund                    | \$94,552.78  |
| Electric Fund                 | \$384,357.69 |
| Sewer Fund                    | \$93,341.29  |
| Telecommunications Fund       | \$47,482.11  |
| Insurance Reserve Escrow Fund | \$47,767.43  |

Passed by unanimous vote.

Under Borough Planning Commission, Mr. Strasser asked Council to consider the Commission's recommendation for the Borough Public Works Committee to meet with Barbara Richards at the Kutztown Area School District to ascertain the minimum number of "No Parking" spaces necessary at the intersection of Constitution Boulevard and Normal Avenue. A motion was made by Mr. Follweiler, seconded by Mr. Seyler, Resolved, To send a letter to Barbara Richards to advise her of the date of the next Public Works Committee meeting. Mr. Follweiler suggested going on-site instead. Mr. Milnes will follow through with Mrs. Richards. Passed by unanimous vote. Mr. Strasser advised Council that the Commission will have one member available to review the recommendations if Council thinks appropriate.

Mr. Strasser noted that the Borough Planning Commission reviewed the University Village Apartments project preliminary plans and has forwarded comments on same to Maxatawny Township.

Under Public Relations Committee, a motion was made by Mr. Seyler, seconded by Mr. Eidle, Resolved, To approve the Final Land Development Plan for the Kutztown University Recreation Center. Passed by unanimous vote.

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

RESOLUTION NO. 7-2005

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, ESTABLISHING A SCHEDULE OF FEES, CHARGES AND EXPENSES FOR PROFESSIONAL CONSULTANTS AND ENGINEERS UTILIZED BY THE BOROUGH OF KUTZTOWN FOR THE REVIEW AND REPORT OF SUBDIVISION AND LAND DEVELOPMENT, STORMWATER MANAGEMENT AND FLOODPLAIN REGULATIONS SUBMITTALS TO THE BOROUGH OF KUTZTOWN.

IT IS HEREBY RESOLVED by the Council of the Borough of Kutztown, County of Berks, Commonwealth of Pennsylvania, in conformity with the Pennsylvania Municipalities Planning Code, as from time to time amended, Chapter 195 "Subdivision and Land Development", Chapter 189 "Stormwater Management" and Chapter 123 "Floodplain Management" of the Code of the Borough of Kutztown to adopt the following schedule of fees, charges and expenses incurred by the Borough for the review and report of Subdivision and Land Development Plans and Stormwater Management, which shall be chargeable to Developers/Applicants, as follows:

SECTION 1 - Legal Consultants

Hourly rates shall be as listed below:

|                                    |           |
|------------------------------------|-----------|
| Solicitor and Solicitor's Partners | \$ 145.00 |
| Associates in Solicitor's Office   | \$ 130.00 |
| Paralegals in Solicitor's Office   | \$ 75.00  |
| Other Legal Consultants            |           |

Such fees, charges and expenses shall be the same as the charges incurred by the Borough for such Legal Consultants.

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## SECTION 2 - Engineering Consultants

Hourly rates shall be as listed below:

### Borough Engineer and Staff

|   |          |
|---|----------|
| Administrative Support                              | \$ 30.00 |
| Drafter; Survey Technician; Project Support         | \$ 49.00 |
| Project Rep; Survey Party Chief; Designer           | \$ 68.00 |
| Associate Specialist; Land Surveyor                 | \$ 79.00 |
| Sr. Designer; Sr. Project Rep; Engineer; Specialist | \$ 89.00 |
| Technical Manager; Sr. Engineer; Sr. Specialist     | \$ 95.00 |

### Borough Electrical Engineering Consultants

|                 |          |
|-----------------|----------|
| Clerical        | \$ 57.00 |
| Engineer I      | \$ 74.50 |
| Engineer II     | \$ 90.00 |
| Engineer III    | \$ 0.00  |
| Engineer IV     | \$ 94.00 |
| Engineer V      | \$132.00 |
| Engineer VI     | \$141.00 |
| Engineer VII    | \$156.50 |
| CADD Operator I | \$ 58.50 |
| Designer        | \$ 78.00 |

### Borough Transportation Engineering Consultants

|                              |          |
|------------------------------|----------|
| Rod Person; Engineering Aide | \$ 32.00 |
| Word Processor               | \$ 37.00 |

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|  |          |
|--|----------|
| Instrument Person; Survey Party Chief  | \$ 62.00 |
| Registered Surveyor  | \$ 81.00 |
| Technician; CADD Operator; Administrative Assistant  | \$ 47.00 |
| Design Drafter; Design Technician  | \$ 78.00 |
| Construction Observer, Code Officer  | \$ 67.00 |
| Designer   | \$ 90.00 |
| Engineer; Planner; Project Manager   | \$ 95.00 |
| CADD Time  | \$ 12.00 |
| Travel – Mileage Rate<br>(*The rate established by the IRS changes periodically, and<br>the actual travel rate will be the rate allowed by the IRS.) | \$ .405* |

Other Engineering Consultants

Such fees, charges and expenses shall be at cost plus 10% as received from such Consultants.

SECTION 3 - Other Consultants

Such fees, charges and expenses shall be the same as the charges incurred by the Borough of Kutztown for such Consultants.

SECTION 4 - Miscellaneous Charges and Disbursement Expenses

Miscellaneous charges and disbursement expenses incurred by the Borough for the services of the above-noted Consultants in the performance of the reviews and reports required by Chapter 195 "Subdivision and Land Development", Chapter 189 "Stormwater Management" and Chapter 123 "Floodplain Regulations" of The Code of the Borough of Kutztown shall be charged to the Developer/Applicant at the same rate as charged to the Borough for such expenses.

SECTION 5 - Such fees, charges and expenses as herein listed shall be the same as would be charged to the Borough when such fees, charges and expenses are not reimbursable.

Such fees, charges and expenses as herein listed shall be on file and available upon request to the Developer/Applicant for review.

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SECTION 6 - The Borough of Kutztown reserves the right to adopt additional fees, charges and expenses, and to modify the fees, charges and expenses listed herein.

Upon adoption or modification of this Resolution, any and all Developers and/or Applicants currently being charged for such services, as allowed by the Pennsylvania Municipalities Planning Code, as from time to time amended, shall be notified of such within ten (10) days of adoption.

SECTION 7 - Capitalized terms used herein without definition shall have the meanings attributed thereto by the Pennsylvania Municipalities Planning Code and/or Chapter 195 "Subdivision and Land Development", Chapter 189 "Stormwater Management" and Chapter 123 "Floodplain Regulations" of The Code of the Borough of Kutztown, as appropriate.

SECTION 8 - All Resolutions or parts of Resolutions inconsistent with this Resolution are hereby superseded.

ADOPTED by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled this 15<sup>th</sup> day of February, 2005.

Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Eidle, Resolved, To approve the design and purchase of a new Borough self-inking stamp in the amount of \$25.00 and a new Borough desk model embossing seal in the amount of \$205.00 and to authorize the Borough Solicitor to prepare an Ordinance adopting the seal, the use of the seal and the registration of the seal. Passed by unanimous vote.

Mayor Marino vetoed Ordinance No. 2-2005 passed by Council at its January 18, 2005 meeting and presented his objections to Council as follows:

"I veto Ordinance No. 2-2005, "Housing Standards," because not one of you knows what this Ordinance is about. I do not think any of the Council read it in its entirety. I originally vetoed it because there wasn't enough research or discussion on it and I was right because that is why you have



to amend it so soon. I am also vetoing it because the Ordinance is presently being challenged in Court and should not be amended at this time. The Ordinance also states an "Addendum to Agreement/Lease" will be incorporated into the tenant/landlord lease agreement. What if there is no lease agreement between landlord and tenant? I do not think you can compel any one to have a lease agreement. Over all I think this ordinance will create more problems than solutions. I think the Council should make public who suggested adopting this ordinance.

I veto this ordinance because there are ample laws in place to handle these problems. The ordinance was drawn up and approved by Solicitors Dietrich and Mooney who love controversy and confusion because it leads to more litigation and more revenue for their law firm. Barley Snyder billed the Borough over \$120,000 in 2003 and the amount Barley Snyder billed us for in 2004 is a secret."

A motion was made by Mr. Seyler, seconded by Mr. Eidle, Resolved, To reconsider the vetoed Ordinance No. 2-2005, to override Mayor Marino's veto and to enact and ordain the following:

ORDINANCE NO. 2-2005

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AMENDING CHAPTER 135, ENTITLED "HOUSING STANDARDS," OF THE CODE OF THE BOROUGH OF KUTZTOWN REPEALING THE APPENDIX "A" IN ITS ENTIRETY AND ADDING THERETO A NEW APPENDIX A.

Passed by unanimous vote.

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The Executive Session to discuss litigation regarding Chapter 135 of the Kutztown Code was deferred until the end of the meeting.

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

|                        |                |            |
|------------------------|----------------|------------|
| District Justice Greth | December, 2004 | \$8,289.21 |
| Clerk of Common Pleas  | December, 2004 | \$447.10   |
| Secretary's Office     | January, 2005  | \$2,130.00 |

A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To authorize the appropriate Borough officials to execute the Agreement for Participation as an associate member in the Central Westmoreland Council of Governments Vehicle Purchasing Program for a fee of \$130.00. Passed by unanimous vote.

A motion was made by Mr. Schwoyer, seconded by Mr. Follweiler, Resolved, To purchase a 2005 Ford Explorer from Day Fleet Sales, Monroeville, Pennsylvania, at a cost of \$24,820.00, through the Central Westmoreland Council of Governments Cooperative Purchasing Contract No. 04-MV-004-005. Mr. Follweiler asked the police department to consider purchasing hybrid vehicles in the future. Passed by unanimous vote.

Under Public Works Committee, a motion was made by Mr. Follweiler, seconded by Mr. Seyler, Resolved, To introduce and authorize advertisement of the proposed Ordinance amending §192-7 of the Kutztown Code. Passed by unanimous vote.

A motion was made by Mr. Follweiler, seconded by Mr. Seyler, Resolved, To introduce and authorize advertisement of the proposed Ordinance establishing a cartway width and grades on a portion of James Street. Passed by unanimous vote.

Mr. Vettraiño noted that a press conference has been scheduled by PennDOT on this Friday, February 18, 2005, to present a \$630,000 check to the Borough for the street light project. President Crooker will accept on behalf of the Borough. Mrs. Crooker thanked Mr. Vettraiño, the Borough staff and the Kutztown Community Partnership for their efforts in the grant application process. Mr. Mantz echoed Mrs. Crooker's sentiments.

Under Personnel Committee, the Executive Session to discuss police contract negotiations and to discuss the incident that occurred in Borough Hall in the early afternoon of February 11, 2005, as well as the litigation regarding Chapter 135, will be postponed until the end of the meeting.

A motion was made by Mr. Mantz, seconded by Mr. Follweiler, Resolved, To establish a Seasonal Community Service Officer II position at an hourly rate of \$10.01, And Be It Further Resolved, To approve the Seasonal Community Service Officer II position description and to authorize advertisement for applicants. Passed by unanimous vote.

A motion was made by Mr. Mantz, seconded by Mr. Seyler, Resolved, To establish a Community Service Officer Coordinator/Part-Time position at an hourly rate of \$10.26, And Be It Further Resolved, To approve the Community Service Officer Coordinator position description and to authorize advertisement and hiring for said Coordinator position, contingent upon AFSCME's approval. Passed by unanimous vote.

Under Electric and Telecom Committee, Mayor Marino vetoed Resolution No. 4-2005, passed by Council at its February 1, 2005, meeting and presented his objections to Council as follows:

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"I veto Resolution No. 4-2005, "Adopt Rates for Electric" because it is increasing the electricity rates to our residents to allow the Borough Council to transfer funds to Telecom from the Electric Fund. Borough Manager\Treasurer Vettraino stated \$900,000 was transferred to Telecom in 2003 and most of it came from the Electric Fund.

Mr. Vettraino will not state the amount of funds transferred from the Electric Fund to Telecom or the amount of money Telecom lost in 2003.

Mr. Vettraino did state that the purchasing price of electricity to the Borough was increased by about 16% and the Borough will increase the price to Borough customers by about 8%. The Borough Council would like it to appear that the Borough is absorbing the 8% difference to conceal the fact that funds are being transferred to Telecom. If the Borough Council can transfer almost \$900,000 from the Electric Fund to Telecom annually then the borough customers are paying too much money for electricity to finance Telecom which is losing approximately \$1,000,000 a year. Borough Manager\Treasurer Vettraino recently had a salary increase of approximately \$6,000 annually as a reward for keeping all information concerning our finances, Telecom and the Budget from the public. All the rest of the Borough employees received a 3% raise. The vote for his salary increase by the Borough Council was 3 to 2 because Councilman Schwoyer left before the vote claiming illness. Councilman Schwoyer's vote could have created a tie 3-3 tie and I would have broken the tie. Councilman Schwoyer picks and chooses when he will vote

claiming illness. I told him at a recent Council Meeting that he should retire and he stated maybe he should so he does not have to hear my bulls—t which is a vulgarity that is allowed by President Crooker and the Borough Council. Vulgarities are allowed at our Borough Council meetings as long as they are directed at me.

I demand you read my veto before you override it as usual and yes my veto does deliver a message. The message is all our books and records are public information whether the Borough Council likes it or not."

A motion was made by Mr. Schwoyer, seconded by Mr. Eidle, Resolved, To reconsider the vetoed Resolution No. 4-2005, to override Mayor Marino's veto and to adopt the following:

RESOLUTION NO. 4-2005

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA AMENDING CHAPTER 107, SECTION 107-7, OF SECTION A-231-1 OF CHAPTER A231 OF THE CODE OF THE BOROUGH OF KUTZTOWN SO AS TO ADOPT THE RATES FOR ELECTRIC SERVICE FURNISHED TO CONSUMERS EFFECTIVE WITH THE ELECTRIC BILLS DUE AND PAYABLE ON AND AFTER FEBRUARY 20, 2005, SAID RATES TO REMAIN IN EFFECT UNTIL CHANGED BY RESOLUTION, AND SUPERSEDING ANY AND ALL RESOLUTIONS AND PARTS OF RESOLUTIONS INCONSISTENT WITH THIS RESOLUTION.

WHEREAS, the Council of the Borough of Kutztown from time to time adopts resolutions establishing the rates to be charged for electrical service furnished to consumers, by authority of the duly enacted ordinances of the Borough of Kutztown, Berks County, Pennsylvania.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, and it is hereby adopted by the authority of the same, that Section 107-7 of Chapter 107 of Section A-231-1 of Chapter A231 of the Code of the Borough of Kutztown be, and it is hereby, amended and restated in full and shall henceforth read as follows:

RATE SCHEDULE RG  
GENERAL RESIDENTIAL SERVICE

APPLICATION:

# 16988

This rate schedule is for single phase residential service in accordance with the APPLICATION PROVISIONS hereof.

## NET MONTHLY RATE:

\$6.27 per month plus  
11.44 cts. per KWH for the first 200 KWH.  
9.31 cts. per KWH for all additional KWH.

The Energy Charge applies to all KWH supplied under this rate.

The Net Monthly Rate Minimum is \$6.27.

## WATER HEATING SERVICE:

When a customer has an electric water heater which meets all the requirements of this provision, a block of 400 KWH is billed at 9.31 cts. per KWH after the first 200 KWH is billed. All additional KWH are billed at 9.03 cts. per KWH.

## APPLICATION PROVISIONS:

- (1) This rate schedule is for single phase electric service for:
  - (a) A single family dwelling and appurtenant detached buildings.
  - (b) A separate dwelling unit in an apartment house.
  - (c) A single farm dwelling and general farm uses.
- (2) This rate schedule does not apply to:
  - (a) Residential service that includes more than 2,000 watts of connected load attributable to commercial or professional use exclusive of space heating and air conditioning in common with the residence.
  - (b) Residential service combined with any commercial or professional use outside the residence or in a section of a multi-use building that is separate from the dwelling unit.
  - (c) Service which includes common use for halls, basement, or other portions of an apartment building.
  - (d) Establishments recognized by name, notice or advertisement, such as hotels, clubs, fraternities, boarding houses, institutions, orphanages, rest homes, tourist homes and rooming houses with more than 3 rooms available for such use and rectories and convents with accommodations for more than 5 adults.
- (3) Where any use of service at a residence is not eligible for the application of this rate schedule, customer has the option to provide separate circuits so that the portion that is applicable can be metered and billed separately hereunder and the remaining portion can be billed under the applicable general service rate schedule. When separate circuits are not provided, the entire service is billed under the applicable general service rate schedule.
- (4) Water heaters shall be automatic with a tank capacity of 30 gallons or more, equipped with noninductive heating elements, each thermostatically controlled and so connected that not over 5,000 Watts can operate at one time. The water heater shall be the exclusive source of hot water at all times. The Borough may check the installation if and when it deems necessary.

## RATE SCHEDULE RH RESIDENTIAL SERVICE WITH ALL ELECTRIC HOUSE HEATING

### APPLICATION OF SCHEDULE:

This rate schedule is for single phase residential service in accordance with the APPLICATION PROVISIONS, hereof, when electricity is the sole source of energy for space heating, cooking and water heating.

### NET MONTHLY RATE:

\$6.27 per month plus  
11.44 cts. per KWH for the first 200 KWH.  
9.31 cts. per KWH for the next 400 KWH.  
8.56 cts. per KWH for all additional KWH.

The Energy Charge applies to all KWH supplied under this rate.

The Net Monthly Rate minimum is \$6.27.

### SPACE HEATING REQUIREMENTS:

Electric space heating units and/or electrically operated central year round air conditioning equipment shall be permanently installed and shall be the sole means of heating the dwelling unit. Fireplaces are the only supplementary heating source permitted in conjunction with electric heating.

### WATER HEATING REQUIREMENTS:

Water heaters shall be automatic with a tank capacity of 30 gallons or more, equipped with noninductive heating elements, each thermostatically controlled and so connected that not over 5,000 Watts can operate at one time. The water heater shall be the exclusive source of hot water at all times. The Borough may check the installation if and when it deems necessary.

### LEVELIZED BUDGET BILLING:

Levelized Budget Billing is available at the option of the customer. When a customer elects budget billing, the Borough will bill the customer each month an amount approximately equal to one eleventh of the estimated annual billing with appropriate periodic adjustments made, and a twelfth month payment sufficient to cover the balance owing for a full year so the total for each twelve-month billing cycle will equal the actual charges under the rate for the same twelve-month billing period.

### APPLICATION PROVISIONS:

- (1) This rate schedule is for single phase electric service for:
  - (a) A single family dwelling and appurtenant detached building.
  - (b) A separate dwelling unit in an apartment house.
  - (c) A single farm dwelling and general farm use.
  
- (2) This rate schedule does not apply to:
  - (a) Residential service that includes more than 2,000 watts of connected load attributable to commercial or professional use exclusive of space heating and air conditioning in common with the residence.

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- (b) Residential service combined with any commercial or professional use outside the residence or in a section of a multi-use building that is separate from the dwelling unit.
  - (c) Service which includes common use for halls, basement, or other portions of an apartment building.
  - (d) Establishments recognized by name, notice or advertisement, such as hotels, clubs, fraternities, boarding houses, institutions, orphanages, rest homes, tourist homes and rooming houses with more than 3 rooms available for such use and rectories and convents with accommodations for more than 5 adults.
- (3) Where any use of service at a residence is not eligible for the application of this rate schedule, customer has the option to provide separate circuits so that the portion that is applicable can be metered and billed separately hereunder and the remaining portion can be billed under the applicable general service rate schedule. When separate circuits are not provided, the entire service is billed under the applicable general service rate schedule.

RATE SCHEDULE CD  
SMALL GENERAL SERVICE  
AT SECONDARY VOLTAGE OR HIGHER

APPLICATION OF RATE SCHEDULE CD:

This rate schedule is for small general service at secondary voltage or at a higher available voltage at the option of the Borough. The billing demand is limited to 3 KW for churches where no portion of the building is rented or leased for non-church sponsored activities.

NET MONTHLY RATE:

Demand \$1.31 per kilowatt for all Billing KW.  
KWH Charge 14.00 cts. per KWH for the first 100 KWH per kilowatt of the Billing KW  
9.91 cts. per KWH for the next 100 KWH per kilowatt of the Billing KW  
8.71 cts. per KWH for all additional KWH.

The Energy Charge applies to all KWH supplied under this rate.

The Net Monthly Rate Minimum is \$2.27 per kilowatt of the minimum billing demand of 3 KW.

Pennsylvania State Sales Tax is applied as required by the Pennsylvania Department of Revenue.

BILLING KW:

Where no demand meter is installed, Billing KW is 3 KW.

The Borough installs a demand meter when it estimates that the demand exceeds 3 KW. The Billing KW is the average number of kilowatts supplied during the 15-minute period of maximum use during the current billing period taken to the nearest ½ kilowatt, but not less than 3 KW.

RATE SCHEDULE IG  
GENERAL INDUSTRIAL SERVICE  
AT SECONDARY VOLTAGE OR HIGHER

APPLICATION RATE SCHEDULE IG:



This rate schedule is for general industrial service, served at a secondary voltage, or at a higher available voltage at the option of the Borough. Where necessary, the Borough furnishes and maintains one transformation from line voltage to a lower Borough standard service voltage.

NET MONTHLY RATE:

- Demand \$9.50 per kilowatt for the first 125 kilowatts of the Billing KW.
- \$7.86 per kilowatt for all additional kilowatts of the Billing KW.
- KWH Charge 7.50 cts. per KWH for the first 150 KWH per kilowatt of the Billing KW.
- 6.37 cts. per KWH for the next 100 KWH per kilowatt of the Billing KW.
- 5.47 cts. per KWH for the next 50 KWH per kilowatt of the Billing KW.
- 4.97 cts. per KWH for all additional KWH.

The Energy Charge applies to all KWH supplied under this rate.

The minimum monthly billing demand is 25 KW.

The Net Monthly Rate Minimum is \$9.50 per KW per the Minimum Billing Demand of 25 KW.

The Pennsylvania State Sales Tax is applied as required by the Pennsylvania Department of Revenue.

BILLING KW:

The Billing KW is the average number of kilowatts supplied during the 15-minute period of maximum use during the current billing period.

RATE SCHEDULE IS  
INSTITUTIONAL SERVICE RATE

APPLICATION OF SCHEDULE

This rate schedule is for three-phase service for a load in excess of 50 KW serving an institution of public, charitable or educational character, excluding industrial and commercial facilities.

TWO RATES

The "all electric" rate applies to those facilities where electricity is the sole source of energy for space heating, ventilating, air conditioning, cooking, water heating, lighting and power requirements. The "not all electric" rate applies to those facilities where only a portion of the energy needs are supplied by electrical energy.

MONTHLY RATE

| <u>Monthly Consumption KWH</u> | <u>All Electric Rate (¢/KWH)</u> | <u>Not All Electric Rate (¢/KWH)</u> |
|--------------------------------|----------------------------------|--------------------------------------|
| 15,000 & Less                  | 9.33                             | 10.52                                |
| 30,000                         | 9.22                             | 10.42                                |
| 45,000                         | 9.11                             | 10.31                                |
| 60,000                         | 9.01                             | 10.20                                |
| 75,000                         | 8.90                             | 9.98                                 |
| 90,000                         | 8.79                             | 9.87                                 |
| 105,000                        | 8.57                             | 9.77                                 |
| 120,000                        | 8.46                             | 9.66                                 |
| 135,000                        | 8.35                             | 9.55                                 |
| 150,000                        | 8.25                             | 9.44                                 |
| 165,000                        | 8.14                             | 9.33                                 |

# 16992

180,000

8.03

9.22

## MINIMUM CHARGE

\$209.95

## RATE SCHEDULE IP-H LARGE GENERAL SERVICE AT 13,800 VOLTS OR HIGHER

### APPLICATION RATE SCHEDULE:

This rate schedule is for large general service supplied from available lines of 13,800 volts or higher when customer furnishes and maintains all equipment necessary to transform the energy from line voltage and when electricity is the principal source of all the customer's energy requirements, including space heating in accordance with the applications provisions hereof.

Electric space heating facilities shall be permanently installed and operated for personal comfort.

### NET MONTHLY RATE:

Demand \$8.95 per kilowatt for the first 125 kilowatts of the Billing KW.  
\$8.02 per kilowatt for all additional kilowatts of the Billing KW.  
KWH Charge 7.14 cts. per KWH for the first 150 KWH per kilowatt of the Billing KW.  
6.30 cts. per KWH for the next 100 KWH per kilowatt of the Billing KW.  
5.39 cts. per KWH for the next 50 KWH per kilowatt of the Billing KW.  
4.97 cts. per KWH for all additional KWH.

The Energy Charge applies to all KWH supplied under this rate

The Minimum Billing Demand is 25 KW.

The Net Monthly Rate Minimum is \$8.95 per KW per the Minimum Billing Demand of 25 KW.

The Pennsylvania State Sales Tax is applied as required by the Pennsylvania Department of Revenue.

### BILLING KW:

The Billing KW is the average number of kilowatts supplied during the 15-minute period of maximum use during the current billing period.

### APPLICATION PROVISIONS:

- (1) This rate schedule applies to single meter service for all of customer's energy requirements, under the following conditions:
  - (a) The facilities for electric space heating are, in Borough's judgment, a significant and integral portion of customer's total energy requirement to be supplied hereunder.
  - (b) Service supplied hereunder includes all energy requirements on customer's premises in a building.
  - (c) All service in one building is supplied at one voltage from one service connection.
  - (d) Another form of energy may be used for emergency lighting generators and, upon Borough approval, for other similar uses.

- (e) When customer occupies an entire building, service hereunder may include uses of service outside the building only when they are directly incident to the principal use of service in the building.
- (2) Supplemental use of renewable energy sources such as wood, solar, wind and water is permitted in conjunction with service supplied hereunder without violating the total electric energy requirement of the rate. Any customer system of this type that produces electric energy may not be operated concurrently with service supplied by the Borough except under written agreement setting forth the conditions of such operation.

RATE SCHEDULE KF  
KF-LARGE GENERAL SERVICE AT 69,000 VOLTS OR HIGHER

APPLICATION OF RATE SCHEDULE KF:

This rate schedule is for large general service supplied from available 3-phase lines of 69,000 volts or higher, with the customer furnishing and maintaining all equipment necessary to transform the energy from the line voltage.

NET MONTHLY RATE:

\$6.13 cents per KWH for all KWH energy charge. The energy charge applies to all KWH supplied under this rate.

The monthly rate minimum is \$2,917.00.

The Pennsylvania state tax is applied as required by the Pennsylvania Department of Revenue.

RATE SCHEDULE DD  
PRIVATE AREA LIGHTING SERVICE

APPLICATION OF RATE SCHEDULE DD:

This rate schedule is for the lighting of yards, private roadways, alleys and other areas supplied from existing overhead secondary distribution.

NET MONTHLY RATE:

Per light:

175 watt mercury vapor     \$ 9.79  
150 watt high pressure sodium   \$ 9.79  
250 watt high pressure sodium   \$16.68

The Pennsylvania State Sales Tax is applied as required by the Pennsylvania Department of Revenue.

EQUIPMENT AND SERVICE:

Borough installs and maintains the bracket, luminaire, lamp and photoelectric control on a Borough-owned wood pole. Lamp is lighted from dusk to dawn or for approximately 4,300 hours per annum.

A mercury vapor lamp of a nominal, 6,650 lumens (175 watts), a high pressure sodium lamp of a nominal 16,000 lumens (150 watts) or a high pressure sodium lamp of a nominal 25,500 lumens (250 watts) is installed in a luminaire on a bracket. Lamp replacements are normally made on the first working day after outage notification by the customer to the Borough office. There is no credit for outages.

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Borough installs up to one span of secondary not exceeding 150 feet from an existing secondary voltage supply and one pole for each lamp provided the location of the pole is accessible by a service truck for the installation and maintenance of the lamp and provided the Borough is furnished a suitable right of way.

Upon request and at the Borough's discretion, the Borough may install an area light fixture on a suitable customer-owned support.

Where a secondary supply is not available at the desired lamp location and/or where the distance is more than one span, the Borough may furnish the service providing the customer reimburses Borough for the Borough's estimated added investment required to supply the service in each case.

## PAYMENT SCHEDULE AND CONTRACT PERIOD FOR ALL RATE SCHEDULES

### PAYMENT:

The above net rates apply when bills are paid on or before the due date specified on the bill. After the due date, the Borough may initiate collection procedures. A late payment charge of 10% will be applied on the unpaid balance of the current monthly bill if payment is not received on or before the due date.

### CONTRACT PERIOD:

Not less than one year.

BE IT FURTHER RESOLVED, (1) that any and all resolutions and parts of resolutions inconsistent with this Resolution are hereby superseded, (2) with respect to the rate schedules set forth hereinabove, the effectiveness thereof shall apply to electric bills due and payable on and after February 20, 2005, and (3) that this Resolution shall remain in effect until superseded by a duly adopted Resolution of the Council of the Borough of Kutztown.

PASSED by the Borough Council on February 1, 2005.

VETOED by the Mayor on February 7, 2005.

DULY ADOPTED AS A RESOLUTION this 15<sup>th</sup> day of February, 2005, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled.

Below is a copy of Mr. Vettraino's response to Mayor Marino's veto:

February 10, 2005

TO: Borough Council

RE: Mayor Marino's veto of the electric rate ordinance

The purpose of this memorandum is to respond to Mayor Marino's veto, dated February 7, 2005, of the electric rate ordinance. I would respectfully request that it be read into the minutes of the meeting as a formal response to the Mayor's veto.

Mayor Marino's veto contains misinformation:

Though the Mayor claims that information has been withheld, everyone of his claims, statements and accusations were explained, in detail, by public presentations at the December 1, 2004 and January 18, 2005 Council meetings. Video recordings of these

meetings and the PowerPoint documents used as part of the presentation provide answers to all of his questions and factual information that contradicts his claims.

The Mayor was present at both meetings and was given the opportunity to ask questions, which he did and for which he received detailed answers.

The Borough's 2005 electric rates are increasing by 8.5% because of an increase of 17.6% in wholesale rates. The increase in rates will off-set the increase in wholesale rates. There is no projected additional margin being made on the sale of electricity.

There has been no attempt to "conceal" transfers to the Telecommunications operation. To the contrary the exact amount of money invested to the Telecommunications project, from every source, was presented for every year going back to 1999 at December 1, 2004 Council meeting.

The Mayor's claim that the Telecommunications project is "losing \$1,000,000" is wrong. As presented publicly at the December 1<sup>st</sup> meeting, the 2005 budgeted investment in the Telecommunications project is \$270,000, \$730,000 less than the Mayor claims the project is "losing."

Finally, I have never concealed any information about the Borough finances, or any other public information. Nor has any member of Council encouraged me to conceal any public information. In fact, I have met with members of this community to review the Borough budget and finances in detail. Further, myself and other members of the Borough staff have also spent considerable amount of time over the past two years explaining the Borough's finance to Mayor Marino.

The Borough Budget, Electric Utility and Telecommunications Utility are very important subjects that should be discussed and debated among public officials, however the entire public process is damaged when partial or misinformation is propagated by Mayor Marino.

Respectfully submitted,



Jaymes Vettrano  
Borough Manager

Passed by unanimous vote.

A motion was made by Mr. Schwoyer, seconded by Mr. Eidle, Resolved, To introduce and authorize advertisement of the proposed Resolution fixing rates of deposits, electrical meter tests and electrical service reconnections for electric customers. Passed by unanimous vote.

Under Water and Wastewater Committee, a motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To award the Alternate Bid No. 1 received for liquid sludge hauling for the Sewage/Wastewater Treatment Plant to Potty Queen, Pottstown,

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Pennsylvania, for a unit price per gallon of \$0.0686 to haul and dispose of digested liquid sludge as specified in the contract documents. Passed by unanimous vote. A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To award the Alternate Bid No. 2 received for liquid sludge hauling for the Sewage/Wastewater Treatment Plant to Liquid Motion, Kutztown, Pennsylvania, at an hourly rate of \$75 for straight time and overtime to pump out and haul Borough sewage pumping stations and facilities to remove grit, solids, and liquid residue, as specified in the contract documents. Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To approve the request to conduct a special joint meeting to be held with Maxatawny Township on March 3, 2005, at 7:00 p.m. at the Maxatawny Township Municipal Building. Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Mantz, Resolved, To approve the request to prepare specifications for the emergency generator at the Water Treatment Plant. Passed by unanimous vote.

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

## RESOLUTION NO. 5-2005

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AUTHORIZING AND EMPOWERING ITS LOCAL TAX COLLECTOR, BERKHEIMER, TO IMPOSE AND RETAIN COSTS OF COLLECTION ON DELINQUENT TAXES.

WHEREAS, THE BOROUGH OF KUTZTOWN, BERKS COUNTY, by Resolution and/or Ordinance, has levied, assessed and provided for the collection of certain local taxes under and pursuant to the authority of the Act No. 511 of the 1965 General Assembly of the Commonwealth of Pennsylvania, enacted December 31, 1965, and effective January 1, 1966, as amended; and

WHEREAS, THE BOROUGH OF KUTZTOWN, BERKS COUNTY, has hired Berkheimer to collect said taxes levied by the BOROUGH OF KUTZTOWN, BERKS COUNTY, including taxes that are or may become delinquent; and

WHEREAS, pursuant to Act 192 of the 2003-2004 General Assembly of the Commonwealth of Pennsylvania, THE BOROUGH OF KUTZTOWN, BERKS COUNTY, has the right to impose a cost of collection on taxes that become delinquent and/or that remain due and unpaid;

NOW, THEREFORE, BE IT RESOLVED that

1. THE BOROUGH OF KUTZTOWN, BERKS COUNTY, APPROVES AND ADOPTS the Cost of Collection Schedule attached hereto and made a part of this Resolution to be imposed by BERKHEIMER upon any taxpayer whose taxes are or become delinquent and/or remain due and unpaid.
2. BERKHEIMER is authorized to retain said costs of collection set forth in the attached schedule incurred in recovering delinquent taxes and assessed to the delinquent taxpayer as allowed by law.
3. Any resolution or part of this resolution conflicting with the provisions of this resolution be and the same are hereby repealed to the extent of such conflict.

ADOPTED by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled this 15<sup>th</sup> day of February, 2005.

Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Seyler, Resolved, To enact the following Ordinance:

ORDINANCE NO. 8-2005

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, TO AMEND ORDINANCE NO. 6-1995, SO AS TO INCREASE THE FEE FOR TAX CERTIFICATIONS ISSUED BY THE BOROUGH OF KUTZTOWN TAX COLLECTOR; TO INCREASE THE FEE FOR EACH CHECK RETURNED TO THE BOROUGH OF KUTZTOWN TAX COLLECTOR DUE TO INSUFFICIENT FUNDS; TO ESTABLISH A FEE FOR PHOTOCOPYING OR PRINTING TO REIMBURSE

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THE BOROUGH OF KUTZTOWN TAX COLLECTOR FOR ASSOCIATED EXPENSES; TO FIX A COMPENSATION TO BE PAID TO THE BOROUGH OF KUTZTOWN TAX COLLECTOR FOR THE COLLECTION OF BOROUGH TAXES; AND TO APPOINT THE BOROUGH OF KUTZTOWN TAX COLLECTOR AS THE DELINQUENT TAX COLLECTOR FOR THE BOROUGH OF KUTZTOWN.

Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Seyler, Resolved, To condense the listing of bill payments from a detailed listing to a summary format in the Council minutes, effective with the January 18, 2005 minutes. Passed by unanimous vote.

With respect to the ordinance amending fees and compensation for the Borough Tax Collector, Mr. Mantz commented about the recent editorial in the Reading Eagle regarding reducing municipal costs by moving the tax collection activity to a financial institution, rather than a tax collector to provide more convenience for the tax-paying public. He indicated that other municipalities have adopted this policy and in the future, the Borough may want to consider as an economic move, as well.

Under Miscellaneous, a motion was made by Mr. Eidle, seconded by Mr. Seyler, Resolved, To adopt the following Resolution:

## RESOLUTION NO. 6-2005

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, TO AUTHORIZE THE DISPOSITION OF CERTAIN NON-PERMANENT RECORDS, IN ACCORDANCE WITH RESOLUTION NO. 8-2004 ADOPTED MARCH 16, 2004 BY THE COUNCIL OF THE BOROUGH OF KUTZTOWN, THE MUNICIPAL RECORDS MANUAL APPROVED ON JULY 16, 1993, AND ACT 428 OF 1968.



WHEREAS, by virtue of Resolution No. 8-2004, adopted March 16, 2004, the Borough of Kutztown declared its intent to follow the schedules and procedures for the disposition of records as set forth in the Municipal Records Manual approved on July 16, 1993, and

WHEREAS, in accordance with Act 428 of 1968, each individual act of disposition shall be approved by Resolution of the governing body of the municipality.

NOW, THEREFORE, BE IT RESOLVED, That the Council of the Borough of Kutztown, Berks County, Pennsylvania, in accordance with the above-cited Municipal Records Manual, hereby authorizes the disposition of the following public records:

1. Parking Tickets issued prior to February, 2003.
2. 2003 water and sewer payment stubs.
3. 2002 and 2003 Hometown Utilicom payment stubs.

DULY ADOPTED AS A RESOLUTION this 15<sup>th</sup> day of February, 2005, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in a lawful session duly assembled.

Passed by unanimous vote.

President Crooker called for an Executive Session at 8:08 p.m. to discuss litigation regarding Chapter 135 of the Kutztown Code, to update and review the status of police contract negotiations, and to discuss the incident that occurred in the early afternoon on Friday, February 11, 2005, in the Kutztown Municipal Building. The Executive Session ended, and the Council meeting resumed at 8:45 p.m.

A motion was made by Mr. Mantz, seconded by Mr. Eidle, Resolved, To instruct the management negotiating team to prepare for the Act 111 Arbitration Hearing scheduled for Monday, March 21, 2005, And Be It Further Resolved, To accept the list of agreed-upon police contract articles for submission to the Kutztown Police Association for its approval prior to arbitration. Passed by unanimous vote.

A motion was made by Mr. Mantz, seconded by Mr. Eidle, Resolved, To instruct the Borough Solicitor to request that the Kutztown Police Association's legal counsel

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consider that the subject of the Unfair Labor Practice (ULP) hearing scheduled for Friday, April 8, 2005, at 9:30 a.m. be treated in the context of the Act 111 Arbitration, rather than separately considered as a ULP. Passed by unanimous vote.

In view of the alarming and personal confrontation that occurred here in the Municipal building in the early afternoon of Friday, February 11, 2005, and the Mayor's expressive vow to defy every sanction that Council has imposed upon him given his numerous past acts of misconduct, Mr. Mantz proposed, on behalf of the Personnel Committee, that Council, in an effort to safeguard the Borough employees against the violent, abusive and disruptive behavior, invoke the civil enforcement provision as set out in Section 161-7(D)(2)(c) of Chapter 161 of the Kutztown Code, to seek to enjoin by court order the Mayor's future access to worksite locations of Borough employees on Borough property during their hours of work, over whom the Mayor has no supervisory authority and authorize and direct the Borough Solicitor to immediately prepare and file on the Borough's behalf a motion for a permanent injunction for such relief in the Berks County Court of Common Pleas and that recommendation for civil enforcement is in addition to the Borough seeking the imposition of criminal penalties by prosecution of at least criminal trespass or harassment under the applicable provision of the Pennsylvania Crimes Code. A motion was made by Mr. Mantz, seconded by Mr. Eidle, Resolved, To authorize the Borough Solicitor to seek such injunction against the Mayor in order to enjoin his misconduct such that occurred in the early afternoon on February 11, 2005, here in the Kutztown Municipal Building. Passed by unanimous vote.

Mr. Vettraino welcomed the Journalism students from Kutztown University, wished them luck and thanked them for their patience in waiting for Council to return

from the Executive Session.

There being no further business, a motion was made by Mr. Eidle, seconded by Mr. Seyler, Resolved, To adjourn the Council Meeting at 8:51 p.m. Passed by unanimous vote.

Prepared and  
Attested by: Bonnie Bray  
Secretary