

November 20, 2007  
Kutztown, PA

A regular meeting of the Kutztown Borough Council was called to order at 7:31 p.m. in the Kutztown Municipal Building by the President, Mr. Malcolm A. Eidle, with other members of Borough Council present: Mr. Edwin K. Seyler, Mr. Brendan D. Strasser, Mr. James F. Schlegel, Mr. Mark R. Gangewere, Mr. Kevin J. Snyder and the Mayor, Ms. Sandra Green. Mr. Keith Mooney, Borough Solicitor; Mr. Richard F. Celmer, representing the Borough's planning and water/wastewater engineering firm of Spotts, Stevens, & McCoy, Inc.; Mr. Jaymes Vettraino, Borough Manager/Treasurer; 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 Marketing Communications and Customer Relations/Assistant Borough Secretary; Ms. Carmen Bloom, Student Ambassador to Council; Mr. Stephen Kenney, Student Ambassador to the Mayor; Planning Commission representative, David Walker; Zoning Hearing Board representative, Dave Remaley; Kutztown University Off-Campus Advisory Council representative, Erica Hesselson; Residents Filbert Grim, Jr., Joseph Pasqual and Craig Koller were also present.

President Eidle presented David Walker with a certificate of achievement for his eight years of public service as a member of the Borough Planning Commission.

President Eidle called for the opening of bids for fuel oil. The Borough Manager opened and read the bid from Richland Partners, LLC, dba Leffler Energy, Mount Joy, PA, for a net delivered price of \$2.7678 per gallon, based on a tank wagon price of \$2.6078, plus a delivery charge of \$0.1600. There was also a "No Bid" submitted by

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Hess Corporation, Woodbridge, New Jersey. A motion was made by Mr. Schlegel, seconded by Mr. Gangewere, Resolved, To award the bid for fuel oil to Richland Partners, LLC, dba Leffler Energy, Mount Joy, PA, for a net delivered price of \$2.7678 per gallon, contingent upon review and acceptance by the Borough Manager and the Public Works Superintendent. Passed by unanimous vote.

President Eidle asked if there was anyone who wished to address Council before proceeding with the agenda.

Kutztown University's Off-Campus Advisory Council representative, Erica Hesselson, announced a pot luck dinner scheduled at Saucony Cross on November 27, 2007, from 6:00 p.m. to 8:00 p.m. She also announced plans for a community yard sale during the week of final exams. In addition, Ms. Hesselson noted that Operation Snowflake will start on January 15, 2008.

Filbert Grim thanked Borough Council for placing the new signs on College Boulevard.

A motion was made by Mr. Seyler, seconded by Mr. Snyder, Resolved, To approve the following Consent Agenda:

- Review and accept the Minutes of the October 4, and October 16, 2007, Council Meetings.
- Review and accept the Borough Community Development and Public Safety Report for October, 2007.
- Ratify the sending of a letter of support to the Greater Berks Development Fund for its application for the Building PA Program.
- Ratify the approval of the request from Betty Kutz to place sponsorship signs on utility poles for the annual "Relay for Life" hosted by the American Cancer Society.

- Accept the Public Works Committee's recommendation to approve the Kutztown Community Partnership's (KCP) request to utilize the Kutztown Train Station on December 2, 2007, for its Christmas on Main Street event.
- Ratify payment of the 2008 Solvency Fee of \$3,035.24 to elect the option to request relief from Unemployment Compensation charges.
- Authorize the preparation and advertisement for employee uniform bids.
- Ratify the execution of two change orders to the Pine Street Water Main Replacement Project. Change Order Number 1 consists of terminating a two-inch water line for a total cost of \$1,054.00, and Change Order Number 2 consists of installing an additional four-inch valve at Highland Avenue and Maple Street for a total cost of \$987.00.
- Ratify approval for the payment of bills and necessary transfers of funds which have been provided to Borough Council in the Accounts Payable G/L Distribution Report, including payment dates from October 13, 2007, to November 16, 2007, as summarized below:

General Fund	\$ 320,843.67
Refuse and Recycling Fund	\$50,922.16
Fire Protection Tax Fund	\$27,000.00
Water Fund	\$81,513.65
Electric Fund	\$402,901.85
Sewer Fund	\$75,441.87
Telecommunications Fund	\$183,546.63
Unemployment Comp Escrow Fund	\$3,035.24

Passed by unanimous vote.

Under Borough Planning Commission, a motion was made by Mr. Strasser, seconded by Mr. Snyder, Resolved, To authorize the solicitor to intervene on behalf of the Borough regarding Zoning Appeal Z-07-09. Passed by unanimous vote.

Under Community Development and Public Safety Committee, Mr. Strasser requested an Executive Session, off of the agenda, to discuss potential litigation. An AFSCME employment matter was also discussed. The Executive Session ended, and the meeting reconvened at 8:12 p.m. No action was taken after the Executive Session.

Mr. Strasser explained outcome-based initiatives in response to the special

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Council meeting held on October 4, 2007, at the Trinity Lutheran Church, as follows:

## **What has happened since the meeting:**

- KUBOK Neighborhood Watch
- Kutztown University (KU) extended shuttle bus service until 2:00 a.m. on a trial basis through Thanksgiving
- Off-Campus Safety walk
- Off-Campus Advisory Council (OCAC) Block Party
- Invitation to Borough from KU to attend a KU Campus Master Plan presentation

## **What has been suggested to KU:**

- More substantive Town and Gown meetings
- Steering Committee as adjunct to Town and Gown meetings
- Creation of new "Director of Community Relations" position at KU
- Enrollment cap/enrollment freeze
- Greater accountability in recruitment/admission process
- Acceptance of at least partial responsibility for off-campus conduct of KU students, their guests and those who come to town specifically because of KU's presence
- Follow-up to PEL study to assess positive/negative financial impact of KU on the Borough of Kutztown's economy
- Joint municipal and KU advocacy for enabling legislation such as a redrafted HB 1418
- Joint municipal and KU advocacy of proposed legislation that would empower a municipality to collect an alcohol tax
- Significant KU commitment to Borough's ongoing downtown revitalization/Main Street program

- Campus Public Safety (CPS) assists to Kutztown Police Department (KPD) approximately 15-20 hours per week (Thursday, Friday and Saturday, 10:00 p.m. ó 3:00 a.m.)
- Joint CPS/KPD off-campus foot and bicycle patrols during these specified hours
- Agreement between CPS and KPD to establish joint/shared jurisdiction during specified hours
- Curfew for all underclass (fewer than 64 credits) students residing on campus
- Appointment of Borough Manager to KUø Strategic Planning Committee

### **Other suggestions from residents:**

- Mandating opening or closing times for establishments licensed to purvey alcohol
- Pursue designation of certain establishments as ñnuisanceö establishments
- More late-night presence of non-students on Main Street facilitated by street vendors, musicians, etc.
- Barricades and/or closures of portions of Main Street during late-night hours
- Proposed tax on all lease agreements

Per Mr. Strasser, there were no KU officials in attendance at this meeting to discuss these initiatives and suggestions. Mr. Seyler thanked Mr. Strasser for taking the time to prepare this detailed report.

Pursuant to §212-82(B) of the Kutztown Code, a motion was made by Mr. Strasser, seconded by Mr. Seyler, Resolved, To deny the appeal requesting the reinstatement of a Person with Disability Parking Space located at 129 Wentz Street for a resident living at 307 Greenwich Street. Passed by unanimous vote.

A motion was made by Mr. Strasser, seconded by Mr. Snyder, Resolved, To enact

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and ordain the following Ordinance:

## ORDINANCE NO. 14-2007

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, AMENDING §136-2 OF CHAPTER 136 ENTITLED "PROPERTY MAINTENANCE" OF THE CODE OF THE BOROUGH OF KUTZTOWN, SO AS TO REPLACE IPMC §§106.3 AND 106.4.

Passed by unanimous vote.

A motion was made by Mr. Strasser, seconded by Mr. Schlegel, Resolved, To enact and ordain the following Ordinance:

## ORDINANCE NO. 15-2007

AN ORDINANCE OF THE BOROUGH OF UTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA AMENDING THE CODE OF THE BOROUGH OF KUTZTOWN BY AMENDING SCHEDULE 1 OF SECTION 212-58, ENTITLED "SPEED LIMITS", SO AS TO REDUCE THE SPEED ON WEST WALNUT STREET FROM 35 MILES PER HOUR TO 25 MILES PER HOUR.

Passed by unanimous vote.

A motion was made by Mr. Strasser, seconded by Mr. Snyder, Resolved, To introduce and authorize advertisement of the proposed Resolution amending Chapter A231 of the Kutztown Code so as to increase housing license fees to \$42.00 per dwelling unit and \$34.00 per room in a rooming unit, effective with the 2008-2009 licensing year.

Passed by unanimous vote.

A motion was made by Mr. Strasser, seconded by Mr. Gangewere, Resolved, To introduce and authorize advertisement of a proposed Ordinance establishing an Environmental Advisory Council. Passed by unanimous vote.

A motion was made by Mr. Strasser, seconded by Mr. Snyder, Resolved, To appoint KU student Matthew McDonnell to a one-year term as a voting member and KU

student Scott Shapiro to a one-year term as an alternate member of the Housing License Appeals Board, both terms expiring in October, 2008. Passed by unanimous vote.

Mr. Strasser noted that on December 2, 2007, the Kutztown Community Partnership will be hosting a Main Street Christmas. The event is to encourage customers to shop, eat and play in Kutztown for the holiday season.

Under Police Committee, Mayor Green submitted the Police Report for October, 2007.

Mayor Green reported the following fines were collected:

District Justice Greth	September, 2007	\$6,247.85
Clerk of Common Pleas	September, 2007	\$788.19
Secretary's Office	October, 2007	\$7,500.00

Off of the agenda, Chief Cole reported that District Justice Gail Greth ruled that the individuals arrested by the Kutztown Police Department, for an assault on W. Main Street, will stand trial in Berks County Court.

Under Public Works Committee, a motion was made by Mr. Snyder, seconded by Mr. Schlegel, Resolved, To purchase rock salt for the 2007-2008 season through the Berks County Cooperative Purchasing Council contract with American Rock Salt Co., LLC, at a price of \$48.52 per ton delivered. Passed by unanimous vote.

A motion was made by Mr. Snyder, seconded by Mr. Schlegel, Resolved, To award the Revitalization of the Train Station Project to Purcell Construction Company, for a base bid price of \$273,000.00 and an extended price of \$3,300.00 for Extra Work Item G for a total bid amount of \$276,300.00, pending bid reviews and acceptance by the Borough Manager, Borough Solicitor, the project engineer and PennDOT. Passed by unanimous vote.

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Off of the agenda, Mr. Snyder announced that the last day for leaf collection is Monday, November 26, 2007.

Off of the agenda, a motion was made by Mr. Schlegel, seconded by Mr. Snyder, Resolved, To ratify the execution of an easement agreement with the Kutztown Area School District for land to extend the Sacony Trail. Passed by unanimous vote.

Under Personnel Committee, a motion was made by Mr. Seyler, seconded by Mr. Strasser, Resolved, To approve the request from the Louisa Gonser Library Board for a 3.5 percent wage increase for Roseanne Perkins, effective retroactively to January 1, 2007. Mr. Vettraino clarified that this was an oversight by the Borough and that action should have been taken on this in early 2007. Passed by unanimous vote.

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

## RESOLUTION NO. 42-2007

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AMENDING AND REPLACING THE BOROUGH OF KUTZTOWN DRUG AND ALCOHOL TESTING POLICY FOR CDL DRIVERS, AND RESCINDING THE PREVIOUSLY ADOPTED POLICY.

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

WHEREAS, the Borough is required to comply with the requirements of employers pursuant to the federal legislation concerning Commercial Drivers' Licenses (hereinafter "CDL") and the federal regulations thereto insofar as they apply to the Borough; and

WHEREAS, the employment policies of the Borough must conform with the requirements of said law and regulations; and

WHEREAS, it is the intent of the Borough to promote safety and comply with said law and regulations by implementing a drug and alcohol testing program to detect the misuse of alcohol and drugs and to deter the misuse of alcohol and drugs by educating



and training safety-sensitive employees about the safety and health ramifications of alcohol and drug misuse; and

WHEREAS, the Council of the Borough of Kutztown previously adopted by Resolution No. 24-1995, the Borough of Kutztown Drug and Alcohol Testing Policy for CDL Drivers issued under date of December 26, 1995; and

WHEREAS, the Council of the Borough of Kutztown amended and replaced by Resolution No. 6-1996, the Borough of Kutztown Drug and Alcohol Testing Policy for CDL Drivers issued under date of February 13, 1996; and

WHEREAS, the Council of the Borough of Kutztown amended and replaced by Resolution No. 20-1996, the Borough of Kutztown Drug and Alcohol Testing Policy for CDL Drivers issued under date of May 28, 1996; and

WHEREAS, from time to time it will be necessary to amend, replace and rescind previously adopted policies regarding the Borough of Kutztown Drug and Alcohol Testing Policy for CDL Drivers.

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

RESOLVED, that the Council of the Borough herewith adopts the Borough of Kutztown Drug and Alcohol Testing Policy for CDL Drivers issued under date of November 20, 2007, in form as attached, which amends and replaces the previously adopted Borough of Kutztown Drug and Alcohol Testing Policy for CDL Drivers issued under date of May 28, 1996, which is hereby rescinded.

This Resolution shall become effective upon its adoption.

DULY ADOPTED AS A RESOLUTION this 20<sup>th</sup> day of November, 2007, 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. Seyler, seconded by Mr. Snyder, Resolved, To accord regular full-time employment to Kenneth Gilmore, effective retroactively upon completion of his probationary employment on November 9, 2007. Passed by unanimous vote.

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A motion was made by Mr. Seyler, seconded by Mr. Strasser, Resolved, To withdraw the action taken by Council at its August 21, 2007 meeting to authorize the Kutztown Borough Civil Service Commission to take the necessary steps to certify an Eligibility List for the position of Patrol Officer in accordance with the Rules and Regulations of the Civil Service Commission of the Borough of Kutztown, Berks County, Pennsylvania. Mr. Gangewere questioned this motion, and Mr. Seyler explained that since the Borough does not plan on hiring a Patrol Officer, an Eligibility List is not needed. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Gangewere, Resolved, To accept the letter of resignation from Dallas Miller with regret, ratify execution of release and ratify the terms as specified in the Borough's letter dated November 1, 2007. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Strasser, Resolved, To accept the letter of resignation from Annabelle Fink, effective October 9, 2007, with regret. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To hire Daniel Homm, Hamburg, PA, as an unpaid student intern with the Kutztown Police Department following the successful completion of a background investigation and drug screening, effective January, 2008. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Strasser, Resolved, To approve the position descriptions for Codes Inspector and Community Development Office Intern. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Snyder, Resolved, To

authorize the Borough Manager to hire a Public Works Crew Leader. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Strasser, Resolved, To approve the request to permit Linwood Hamm to carry over four days of vacation beyond the thirty day allowance period, as specified in the union contract and to approve the use of these four days for December 4 through 7, 2007. Passed by unanimous vote.

Under Electric and Telecom Committee, a motion was made by Mr. Gangewere, seconded by Mr. Schlegel, Resolved, To ratify authorization of a limited electric rate study to be performed by the Borough electrical engineer, Quad Three. Passed by unanimous vote.

Mr. Vettraino recognized and thanked AMP-Ohio for its Resolution commending the Borough of Kutztown for providing quality electric service to the citizens of the Borough for more than 100 years. He presented the Resolution to President Eidle.

Under Water and Wastewater Committee, Mr. Schlegel thanked the contractor of the Pine Street project for a job well done.

Under Finance and Technology Committee, President Eidle noted that a Special Council Workshop is scheduled for December 5, 2007, at 7:30 p.m.

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

## ORDINANCE NO. 16-2007

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, REPEALING SECTIONS 200-18 THROUGH 200-32 OF THE CODE OF THE BOROUGH OF KUTZTOWN AND RE-ENACTING THE SAME BY PROVIDING FOR THE LEVYING, ASSESSMENT AND COLLECTION OF LOCAL SERVICES TAX IMPOSED UPON INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN AN OCCUPATION IN THE BOROUGH OF KUTZTOWN

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PURSUANT TO 53 P.S. SECTION 6901, ET SEQ. OTHERWISE KNOWN AS THE  
LOCAL TAX ENABLING ACT.

Passed by unanimous vote.

Under Miscellaneous, a motion was made by Mr. Snyder, seconded by Mr. Schlegel, Resolved, To authorize the staff to draft an Ordinance amending Chapter 47, Standing Committees, of the Code of the Borough of Kutztown. Passed by unanimous vote.

A motion was made by Mr. Strasser, seconded by Mr. Seyler, Resolved, To re-appoint Lee W. Erb, to a consecutive five-year term on the Kutztown Municipal Authority, expiring December, 2012. Passed by unanimous vote.

President Eidle noted the following upcoming board term expirations: Troy M. Arndt, a five-year term on KTA, expiring December, 2007; Rose Stroker, a four-year term on the Borough Planning Commission, expiring December 2007; and Police Pension Advisory Committee members serving a two-year term expiring December, 2007: Edwin K. Seyler, Brendan Strasser, Terry Hahn, Sterling H. Adam and Jaymes A. Vettraino.

A motion was made by Mr. Gangewere, seconded by Mr. Schlegel, Resolved, To adjourn the Council Meeting upon vote. Passed by unanimous vote. The meeting ended at 9:13 p.m.

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

Malcolm Eidle and Gina Wiand hereby ordered payment of the expenditures listed in the Accounts Payable G/L Distribution Report, including payment dates from October 13, 2007, to November 16, 2007, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

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Malcolm A. Eidle

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Gina M. Wiand