

May 20, 2008
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 President Malcolm A. Eidle, with other members present: Mr. Edwin Seyler, Mrs. Amy Bray, Mr. James Schlegel, Mr. Mark Gangewere, Mr. Kevin Snyder, and Mayor Sandy Green. Mr. Timothy G. Dietrich, Borough Solicitor; Mr. Dave Woglom, Interim Borough Manager; Mr. Richard Celmer, representing the Borough's planning and water/wastewater engineering firm of Spotts, Stevens, & McCoy, Inc.; Mr. Theodore R. Cole, Chief of Police; Mr. Richard J. Diehm, Special Projects Coordinator; Ms. Rachael Birckbichler, Community Development Director; Mr. Frank P. Caruso, Director of Information Technologies; Bonnie Bray, Borough Secretary/Human Resources Director; residents Joe Pasquale, Filbert A. Grim, Jr., Jay Druckenmiller, and Ken Kern; Mary Oswald of 107 Snowdrift Road; Larry Lloyd of Berks County Conservancy; Student Government Day participants Jeremy Angstadt, Cassi Callmann, William Gibbs, Phil Weiser, Steve Hobaugh, Austin Weidner, Dusty Green and Claire Oswald; David A. Kostival, reporter for the Reading Eagle; and Lisa Mitchell, reporter for The Kutztown Area PATRIOT were also present.

President Eidle noted that the Borough hosted Student Government Day today, and asked the student representatives to present their ideas about wellhead protection to Council. After a lengthy discussion, a mock motion was made by the student council members to promote the importance of the wellhead protection project by providing an education program on the prevention of water contamination and to send out flyers.

Passed by unanimous vote. Mr. Eidle commented that he was very proud of the student

council members for their participation in Student Government Day and wished them all good luck in their future endeavors. The students extended a thank you to Council and to the Mayor for the opportunity to participate in Student Government Day.

Off agenda, Mr. Eidle presented the Municipal Leadership award to the Borough from the Berks County Conservancy for the Borough's commitment and its efforts in establishing the Environmental Advisory Commission (EAC).

There was no one who wished to address Council before proceeding with the agenda.

A motion was made by Mr. Gangewere, seconded by Mr. Seyler, Resolved, To approve the Consent Agenda, consisting of the following items:

- Review and accept the Minutes of the April 15 and 28, 2008, Council Meetings.
- Review and accept the Borough Community Development and Public Safety Report for April, 2008.
- Authorize the appropriate Borough officials to execute the Agreement for Participation in the Central Westmoreland Council of Governments Vehicle and Equipment Purchasing Program.
- Ratify the hiring of the pool employees for the 2008 summer season as listed on the May 9, 2008 memorandum from John Schmoyer.
- Waive the fees (\$63.13) associated with the removal of a hitch post outside 320 W. Main Street.
- Ratify the execution of the Funding Request Form for the Berks County Community Development Block Grant (CDBG) Program FFY2009.
- 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 April 12, 2008, to May 16, 2008, as summarized below:

General Fund	\$202,780.87
Refuse and Recycling Fund	\$35,319.68

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Fire Protection Tax Fund	\$55.13
Recreation Tax Fund	\$103.10
Road Tax Fund	\$258.19
Water Fund	\$89,880.26
Electric Fund	\$444,786.57
Sewer Fund	\$92,516.09
Telecommunications Fund	\$199,535.75
Unemployment Comp Escrow Fund	\$3,378.06

Passed by unanimous vote.

Under Borough Planning Commission, there was nothing to report.

Under Environmental Advisory Commission, Mr. Snyder had several items off the agenda. He reported that the composting and gardening workshop held by the EAC on April 26, 2008, was successful and plans are underway to continue this effort. The EAC can be contacted by email at: eac@kutztownboro.org.

Under Community Development Committee, a motion was made by Mrs. Bray, seconded by Mr. Snyder, Resolved, To introduce and advertise an ordinance to repeal and replace in its entirety Chapter 189 of the Kutztown Code, entitled "Stormwater Management." Passed by unanimous vote.

A motion was made by Mrs. Bray, seconded by Mr. Gangewere, Resolved, To introduce and advertise an ordinance to amend Sections of Chapter 195 of the Kutztown Code, entitled "Subdivision and Land Development" to incorporate changes to storm water management requirements. Passed by unanimous vote.

A motion was made by Mrs. Bray, seconded by Mr. Gangewere, Resolved, To ratify the action taken by Berks County to advertise the ordinance for the creation of the Joint Comprehensive Plan Committee to execute the Intergovernmental agreement with Lyons, Maxatawny and Kutztown. Passed by unanimous vote.

A motion was made by Mrs. Bray, seconded by Mr. Gangewere, Resolved, To ratify the action taken by Berks County to advertise the adoption of the Joint Comprehensive Plan with Lyons, Maxatawny and Kutztown. Passed by unanimous vote.

Mrs. Bray noted that the Community Development Committee unanimously supported a proposal by KU Athletics to organize a community-wide event to promote Family Day at the KU vs. West Chester football game.

Under Public Safety Committee, Mr. Gangewere submitted the Police Report for the month of April, 2008, copies of which were given to Council. He reported the following fines were collected:

District Justice Greth	March, 2008	\$10,148.06
Clerk of Common Pleas	March, 2008	\$177.34
Secretary's Office	April, 2008	\$3,795.00

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

**BOROUGH OF KUTZTOWN
RESOLUTION NO. 15-2008**

WHEREAS, the Pennsylvania General Assembly is considering House Bill 2235 or similar or equivalent legislation which would provide Municipal Service Grants to municipalities for the purpose of reimbursing those municipalities that provide primary municipal services to the main campus of a State System of Higher Education University; and

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WHEREAS, the Borough of Kutztown is a Host Municipality to Kutztown University; and

WHEREAS, the Pennsylvania Economy League completed the University Economic Impact Study in December, 2006, that verified that communities that host a SSHE University suffer from a revenue loss when compared to control group comparable communities; and

WHEREAS, this revenue loss causes real financial strain for the Borough of Kutztown to afford needed services and places an unfair burden on taxable property which has to pay for one hundred percent of the cost of municipal services; and

WHEREAS, the legislation would help to ease the financial burden of this lost revenue.

NOW, THEREFORE, BE IT RESOLVED, that the Borough Council of the Borough of Kutztown supports the Municipal Services Grants legislation creating an equitable reimbursement for municipalities hosting State System of Higher Education property.

ADOPTED by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled this 20th day of May, 2008.

Passed by unanimous vote.

A motion was made by Mr. Gangewere, seconded by Mr. Schlegel, Resolved, To approve the permit application for the Kutztown Fire Company's May 31, 2008 parade.

Passed by unanimous vote.

A motion was made by Mr. Gangewere, seconded by Mr. Schlegel, Resolved, To approve the purchase of a used 1992 Ford Ranger pickup truck for the Community Service Officers in the amount of \$2,500.00, plus additional costs totaling \$2,700.00 for special CSO markings, emergency light bar and mobile radio. Passed by unanimous vote.

Under Public Works Committee, a motion was made by Mr. Snyder, seconded by Mr. Gangewere, Resolved, To award the 2008 Street, Storm Sewer and Water Main

Improvement Project to EJB Paving and Materials Company for Items A through H on the bid specifications, totaling \$318,036.50. Passed by unanimous vote.

Under Personnel Committee, the Executive Session to discuss a nonuniformed personnel matter was tabled until the end of the meeting.

Under Finance, Electric and Telecommunications Committee, Mr. Eidle presented the first quarter budget report for 2008. He reported that revenues were at 52 percent of the budget and expenses at 48 percent.

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

ORDINANCE NO. 4-2008

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 110 OF THE CODE OF THE BOROUGH OF KUTZTOWN, ENTITLED "FIBER-OPTIC COMMUNICATIONS NETWORK," TO AMEND SECTIONS 110-5.B., 110-14.D., 110-21.C., 110-23.A. OF THE CODE OF THE BOROUGH OF KUTZTOWN AND TO ADD SECTION 110-14.G., H. AND I. TO THE CODE OF THE BOROUGH OF KUTZTOWN.

Passed by unanimous vote.

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

RESOLUTION NO. 16-2008

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, AMENDING § A231-1 OF CHAPTER A231 OF THE CODE OF THE BOROUGH OF KUTZTOWN, ENTITLED "ENUMERATION OF FEES", SO AS TO AMEND CHAPTER 110, ENTITLED "FIBER OPTIC COMMUNICATIONS NETWORK" THEREOF, TO AMEND SECTIONS A231-1.6 A. AND B. OF THE

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“SCHEDULE OF RATE AND SERVICES,” OF THE CODE OF THE BOROUGH OF KUTZTOWN.

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

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

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

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

SECTION 1. The Code of the Borough of Kutztown entitled “Enumeration of Fees” is hereby amended so as Sections A231-1.6 A. and B. of the “Schedule of Rates and Services” of Chapter 110 thereof, entitled “Fiber Optic Communications Network,” shall be amended as follows:

1) Section A231-1.6. A. Part 1. entitled “Video/television services and channel guide.” is hereby amended to read as follows:

(1) Regular Cable Television Services:

- (a) Basic Tier: \$18.00 per month
- (b) Expanded Basic Tier: \$35.00 per month
- (c) Premium I: \$18.00 per month
- (d) Premium II: \$18.00 per month

(2) Bulk Television Services. Bulk television customers are customers who provided television service for multiple dwelling units and meet the definition of Bulk television customers as set by the content providers.

- (a) If special terms and conditions apply, fees shall be negotiated as part an agreement with the Bulk television customer.
- (b) Standard Bulk Fees:
 - (i) Expanded Basic bulk television fee: \$14.00
 - (ii) Premium I bulk television fee: \$7.00
 - (iii) Premium II bulk television fee: \$7.00

2) Section A231-1.6. B. Ch 110 Part 2. entitled "Data/internet services." is hereby amended to read as follows:

References to the levels of service are measured in kilobits per second (kbps) or megabytes per second (mbps). The first number listed is the speed of data transfer from the customer to the Internet (the "up speed") the second number listed is the speed of data transfer from the Internet to the customer (the "down speed").

(1) Regular data/internet services:

- (a) 64 kbps x 2 mbps: \$25.00 per month
- (b) 128 kbps x 2 mbps: \$25.00 per month
- (c) 256 kbps x 2 mbps: \$33.00 per month
- (d) 768 kbps x 2 mbps: \$40.00 per month
- (e) 1 mbps x 2 mbps: \$45.00 per month
- (f) 2 mbps x 2 mbps: \$65.00 per month
- (g) 3 mbps x 3 mbps: \$80.00 per month
- (h) Speeds greater than 3 mbps x 3 mbps are considered Business class data/internet service and are available under the provisions below

(2) Business class data/internet services. Business class services are offered to customers that require: multiple static IP address, priority bandwidth or another special data/internet service, not included in the Borough's regular offerings.

- (a) Fees shall be negotiated as part an agreement with the Business class data/internet customer.

(3) Data/internet services offered by the customer for resale.

- (a) Fees shall be negotiated as part an agreement with the data/internet customer.

(4) MDU Internet Services. MDU Internet customers are customers who provided Internet service for multiple dwelling units and meet the definition of MDU Internet customers as determined by the Borough.

- (a) If special terms and conditions apply, fees shall be negotiated as part an agreement with the MDU Internet customer.
- (b) Standard MDU Internet Fee: \$20.00 per service

SECTION 2. This Resolution shall take effect immediately upon its adoption and approval.

SECTION 3. If any provision, sentence, clause, section, or part of this Resolution shall for any reason be found to be unconstitutional, illegal or invalid, such determination shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Resolution, and it is hereby declared to be the intent of the Borough Council of the Borough of Kutztown that this Resolution would have been

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adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not be included herein.

SECTION 4. Except to the extent of the specific matters which are set forth hereinabove and in the Schedule of Rates and Services, the provisions and fees set forth in § A231-1 of Chapter A231 of the Code of the Borough of Kutztown, as previously amended, shall remain in full force and effect.

SECTION 5. All Resolutions or parts of Resolutions inconsistent with this Resolution are hereby superseded.

SECTION 6. Capitalized terms used in this Resolution without definition shall have the meanings ascribed thereto in Chapter 110 of the Code of the Borough of Kutztown.

ADOPTED by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled this 20th day of May, 2008.

Passed by unanimous vote.

Under Water and Wastewater Committee, a motion was made by Mr. Schlegel, seconded by Mr. Snyder, Resolved, To ratify the authorization of the appropriate Borough officials to execute the Consulting Service Contract with Stutzman Crop Care, Inc., Kutztown, PA, for the purpose of developing a level soil conservation plan for the Borough-owned farm tract. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Mr. Snyder, Resolved, To distribute the Kutztown Borough Farm Soil Conservation Plan to interested farmers for proposals to manage the Borough Farm tract. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Mr. Gangewere, Resolved, To approve the first quarter 2008 sewer bill credit for 91-93 South Constitution Boulevard in the amount of \$1,665.95. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Mr. Gangewere, Resolved, To accept partial payment of the first quarter water bill for 91-93 South Constitution

Boulevard, with the understanding that the balance must be paid. Passed by unanimous vote.

Off-agenda item: A motion was made by Mr. Schlegel, seconded by Mr. Snyder, Resolved, To authorize the appropriate Borough officials to execute the First Amendment to Contract No. C000017440 with the Department of Community and Economic Development with regard to extending the contract expiration date to June 30, 2009 for a \$20,000.00 grant toward installation of security equipment. Passed by unanimous vote.

Off agenda item: A motion was made by Mr. Schlegel, seconded by Mr. Gangewere, Resolved, To approve the retention of Jill Remick to provide secretarial assistance for the Kutztown Municipal Authority. Passed by unanimous vote.

Under Miscellaneous, a motion was made by Mr. Schlegel, seconded by Mr. Snyder, Resolved, To appoint Amy Bray as a member of the Police Pension Advisory Committee, whose term shall expire December, 2009. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To appoint Amy Bray as the Borough representative to the Louisa Gonser Community Library Board. Passed by unanimous vote.

A motion was made by Mr. Snyder, seconded by Mr. Schlegel, Resolved, To appoint Amy Bray as the Borough representative for the Center for Community Leadership at Albright College. Passed by unanimous vote.

A motion was made by Mr. Gangewere, seconded by Mr. Snyder, Resolved, To appoint James Schlegel as President Pro-Tem of the Kutztown Borough Council. Passed by unanimous vote.

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Mr. Eidle noted the following term expirations: Danny Seaman, Code Appeals Board ó July, 2008; Craig Koller, Housing License Appeals Board ó July, 2008; and Andrew Arnold, Housing License Appeals Board ó July, 2008. Mr. Gangewere agreed to contact Messrs. Koller and Arnold, while the Community Development office will contact Mr. Seaman.

Mr. Eidle called for an Executive Session at 8:10 p.m. to discuss a nonuniformed personnel matter. The Executive Session ended, and the meeting reconvened at 8:35 p.m.

A motion was made by Mr. Schlegel, seconded by Mr. Gangewere, Resolved, To adjourn the meeting at 8:35 p.m. Passed by unanimous vote.

Prepared and
Attested by: Bonnie Bray
Secretary

Malcolm Eidle and Bonnie Bray hereby ordered payment of the expenditures listed in the Accounts Payable G/L Distribution Report, including payment dates from April 12, 2008 to May 16, 2008, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

Malcolm A. Eidle

Bonnie Bray