

A regular meeting of the Kutztown Borough Council was called to order at 7:31 p.m. in the Kutztown Train Station by the President, Mr. Kevin Snyder, with other members of Borough Council present: Mr. James Schlegel, Mr. Malcolm Eidle, Mr. Edwin Seyler, Ms. Rachael Birckbichler and the Mayor, Ms. Sandra Green. Mr. Derek Mace was absent. Mr. Keith Mooney, Borough Solicitor; Ms. Laura Eberly, representing the Borough's planning and water/wastewater engineering firm of SSM Group, Inc.; Mr. Gabriel Khalife, Borough Manager/Treasurer; Ms. Gina M. Wiand, Borough Secretary/Director of Marketing Communications and Customer Relations; Mr. David Horvath, Information Technologies Coordinator; Police Chief Craig Summers; Planning Commission representative Lisa Ladd-Kidder; Kutztown University students Colin Quinn and Tayania Brown; Kutztown University representative Sue Mangold; Rhoads and Sinon representative Jens Damgaard; dog park representatives Gene Mosca, Jennifer Hess and Jason Reasinger; Ms. Lisa Mitchell, reporter for the Kutztown Area Patriot; and Mr. Steve DeLucas, reporter for the Reading Eagle were also present.

A motion was made by Mr. Seyler, seconded by Mr. Eidle, Resolved, To appoint Barbara Smith to the Vacancy Board for 2013. Passed by unanimous vote.

Mayor Green administered the Oath of Office to Colin Quinn, Student Ambassador to Council.

Mayor Green administered the Oath of Office to Tayania Brown, Student Ambassador to the Mayor.

Scott Kramer, from RBC Capital Markets, reviewed the funding opportunity and

11222

capital project financing review regarding the Borough's Water Treatment Plant and Telecommunications projects.

Jens Damgaard, from Rhoads and Sinon, reviewed the Ordinance that authorizes the execution, filing and securing of the bonds for the Borough's Water Treatment Plant and Telecommunications projects.

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

ORDINANCE NO. 1-2013

OF THE BOROUGH OF KUTZTOWN AUTHORIZING AND SECURING THE ISSUANCE OF ONE OR MORE SERIES OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$12,200,000, PURSUANT TO THE PENNSYLVANIA LOCAL GOVERNMENT UNIT DEBT ACT, TO: (1) CURRENTLY REFUND THIS BOROUGH'S GENERAL OBLIGATION BONDS, SERIES A of 2001 (FEDERALLY TAXABLE), (2) CURRENTLY REFUND THIS BOROUGH'S GENERAL OBLIGATION NOTE, SERIES OF 2008, (3) CONSTRUCT ADDITIONS AND IMPROVEMENTS TO THIS BOROUGH'S WATER SYSTEM, (4) PURCHASE, ACQUIRE, AND CONSTRUCT OTHER CAPITAL IMPROVEMENTS AND CAPITAL EQUIPMENT TO THE EXTENT OF REMAINING FUNDS, AND (5) PAY RELATED COSTS; ACCEPTING A PROPOSAL TO PURCHASE THE BONDS; SPECIFYING A MINIMUM REFUNDING SAVING THRESHOLD AND OTHER CONDITIONS TO ISSUING THE BONDS; SETTING FORTH THE PARAMETERS AND SUBSTANTIAL FORM OF THE BONDS; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THIS BOROUGH TO SECURE THE BONDS; APPOINTING A PAYING AGENT AND SINKING FUND DEPOSITORY; AUTHORIZING THE REDEMPTION OF THE REFUNDED OBLIGATIONS; AND APPROVING RELATED DOCUMENTS AND ACTS.

Passed by unanimous vote.

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

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

- Review and accept the Minutes of the December 18, 2012 Borough Council meeting.
- Review and accept the Borough Community Development Report for December, 2012.
- 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 December 14, 2012 to January 4, 2013, as summarized below:

General Fund	\$191,849.66
Refuse and Recycling Fund	\$38,465.84
Water Fund	\$96,323.33
Electric Fund	\$62,960.29
Sewer Fund	\$201,130.54
Telecommunications Fund	\$51,677.89

Passed by unanimous vote.

Under Borough Planning Commission, Lisa Ladd-Kidder read aloud the recommendation that the Zoning Hearing Board deny the request for a variance, for Zoning Appeal No. Z-12-04, regarding 228 Greenwich Street.

Ms. Lisa Ladd-Kidder read aloud the recommendation that the Zoning Hearing Board deny the request for a special exception and a variance, for Zoning Appeal No. Z-12-05, regarding 474 West Main Street.

Ms. Lisa Ladd-Kidder read aloud the recommendation that the Zoning Hearing Board deny the request for an appeal, for Zoning Appeal No. Z-12-06, regarding 451 West Walnut Street.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To have the Borough Solicitor represent the Borough at the zoning hearings for Z-12-04, Z-12-05 and Z-12-06. On the suggestion of Ms. Birckbichler, the motion was amended by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To have the Borough Solicitor represent the

11224

Borough at the zoning hearings for Z-12-05 and Z-12-06, but not Z-12-04 if that hearing would get rescheduled for another date. Passed by unanimous vote.

Under Environmental Advisory Commission, there was nothing to report.

Under Community Development and Public Safety Committee, Mr. Schlegel submitted the Monthly Police Report for December, 2012.

Mr. Schlegel reported the following fines were collected:

District Justice Greth	November, 2012	\$8,324.82
Clerk of Common Pleas	November, 2012	\$153.32
Secretary's Office	December, 2012	\$5,725.00

A motion was made by Mr. Schlegel, seconded by Mr. Eidle, Resolved, To allow the State Police Forensics Firearms Unit to utilize the Borough's range for qualifications and test fire, with the condition that the appropriate waivers and agreements be executed. Passed by unanimous vote.

Under Public Works Committee, a motion was made by Mr. Eidle, seconded by Ms. Birckbichler, Resolved, To approve the request from Steve Sharadin to adjust the invoice for the Kutztown Folk Festival, by waiving the material fees and the 5% overhead cost, for a total cost of \$2,433.00. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To approve the proposed Dog Park rules. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Ms. Birckbichler, Resolved, To hire Steve Hudak and Lisa Reilly as pool co-managers for the 2013 season, each with a salary of \$8,360.00. Passed by unanimous vote.

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

approve the estimate from TriState McQuay Service to replace an air conditioning unit in the Police Station at a cost of \$4,292.00. Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Schlegel, Resolved, To approve the purchase of 50-year shingles for the new roof of the kitchen building in the park. Note: The cost difference between 30-year shingles and 50-year shingles is \$1,000.00. Passed by unanimous vote.

Under Personnel Committee, a motion was made by Mr. Seyler, seconded by Ms. Birckbichler, Resolved, To approve the Memorandum of Understanding, with the Kutztown Police Association, to extend use of personal days and vacation time. Passed by unanimous vote.

An Executive Session to discuss personnel and legal matters was deferred until the end of the meeting.

Under Finance and Electric Committee, a motion was made by Mr. Eidle, seconded by Mr. Schlegel, Resolved, To introduce and authorize advertisement of the proposed Resolution amending labor and equipment rates. Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Schlegel, Resolved, To introduce and authorize advertisement of the proposed Ordinance amending the fees and compensation for the Borough of Kutztown Tax Collector. Passed by unanimous vote.

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

RESOLUTION NO. 1-2013

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, AUTHORIZING THE APPROPRIATE BOROUGH OFFICIALS TO EXECUTE THE EPPG POOL PARTICIPANT SCHEDULE WITH AMP.

11226

WHEREAS, the Borough of Kutztown, Pennsylvania (the “Municipality”), owns and operates an electric utility system for the sale of electric power and associated energy for the benefit of its citizens and taxpayers; and

WHEREAS, in order to satisfy the electric power and energy requirements of its electric utility system, the Municipality, acting individually and, along with other municipalities which own and operate electric utility systems, jointly through AMP, endeavors to arrange for coordination of the purchase or other provision of electric power and energy (power supply) and for ultimate delivery to its customers; and

WHEREAS, Municipality has executed a Master Services Agreement with AMP which sets forth the general terms and conditions for the provision of power supply and other services by AMP to the Municipality; and

WHEREAS, Municipality desires to contract with AMP, along with other AMP member municipalities to pool, arrange and share power supply and transmission operations; and

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE BOROUGH OF KUTZTOWN, PENNSYLVANIA.

SECTION 1. That the form of EPPG Pool Participant Schedule attached hereto as Exhibit 1, including Appendices thereto between this Municipality and AMP, be, and the same hereby is, approved substantially in the form attached hereto, subject to and with any and all changes provided herein and therein.

SECTION 2. That the Borough authorized Borough representative is hereby authorized and directed to execute and deliver on behalf of this Municipality the EPPG Pool Participant Schedule, substantially in the form attached hereto together with such changes or modifications of the same that are not adverse to this Municipality’s interest as determined by the Borough representative and/or Borough Solicitor.

SECTION 3. That is it found and determined that, to the extent required by law, all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of the Council, and that all deliberations of this Council and of any its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

SECTION 4. If any section, subsection, paragraph, clause or provision or any part thereof of this Resolution shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Ordinance shall be unaffected by such adjudication and all the remaining provisions of this Ordinance shall remain in full force and effect as though such section, subsection, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

SECTION 5. That this Resolution shall take effect at the earliest date allowed by law.

ADOPTED by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled this 15th day of January, 2013.

Passed by unanimous vote.

A motion was made by Mr. Eidle, seconded by Mr. Schlegel, Resolved, To execute the 2013 Eastern Pennsylvania Pool Participant Schedule Master Service Agreement No. C-12-2004-4113. Passed by unanimous vote.

Under Telecommunications and Information Technologies Committee, a motion was made by Ms. Birckbichler, seconded by Mr. Seyler, Resolved, To adopt the following Resolution:

RESOLUTION NO. 2-2013

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE FEES ASSOCIATED WITH THE BOROUGH'S PROVISION OF VIDEO, TELEVISION, INTERNET AND TELEPHONE SERVICES AS PROVIDED FOR IN CHAPTER 110 OF THE CODE OF THE BOROUGH OF KUTZTOWN.

WHEREAS, the Borough of Kutztown (the "Borough") is a Pennsylvania municipal corporation organized and existing pursuant to the Borough Code of the Commonwealth of Pennsylvania, as adopted on February 1, 1965, P.L. 1656, No. 581, as amended and supplemented from time to time; and

WHEREAS, the Borough owns and manages a fiber optic network which provides video, television, Internet and telephone services to the residents of the Borough of Kutztown and other customers of the aforementioned services; 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 kept on file in the office of the Borough Secretary; and

WHEREAS, the Borough of Kutztown most recently amended the schedule of rates and services related to the Borough's telecommunications services by adoption of Resolution 13-2012 on August 21, 2012; and

11228

WHEREAS, the Borough desires to amend the schedule of rates adopted pursuant to Resolution 13-2012 in order to provide rates and fees for additional services offered by the Borough.

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 rates and charges associated with the provision of Fiber Optic Communications Services to the customers of the Borough of Kutztown's video, television, Internet and telephone services shall be as set forth below, until such time as further amended by Resolution of the Borough Council:

Section 1. Video/Television Services and Channel Guide.

A. STANDARD CUSTOMER RATES:

1.	Basic Television	\$22.00
2.	Expanded Basic Television	\$55.00
3.	Premium 1 Tier	\$21.50
4.	Premium 2 Tier	\$25.00
5.	Expanded Basic + Premium 1 Tier	\$76.50
6.	Expanded Basic + Premium 2 Tier	\$80.00
7.	Expanded Basic + Premium 1 and Premium 2 Tiers	\$101.50
8.	Discounts for Multiple Services	

(a) Customers receiving 2 services receive a 2.5% discount off telecommunications services only (any combination).

(b) Customers receiving 3 services receive a 5% discount off telecommunications services only (TV, Internet, Phone).

B. SERVICE BUNDLE RATES – A broadband Internet connection is required for TiVo® Premiere DVR service.

1.	Basic Television, Internet (up to 8mb) and TiVo® Premiere DVR	\$59.95
2.	Expanded Basic Television, Internet (up to 8mb) and TiVo® Premiere DVR	\$89.95
3.	Service Bundle Rates which were previously offered as "Package Customer Rates" shall be offered to customers currently subscribing to those packages until the package term expires.	

C. BULK CUSTOMER RATES

1. Definition of Bulk Customer Definitions.

- (a) Bulk Property - shall mean (i) any multiple unit residential building where all dwelling units receive the service (“MDU”) or (ii) any nonresidential property (including but not limited to bars, restaurants, hotels, motels, hospitals or offices).
- (b) Bulk Customer - shall mean any Bulk Property (a) that is charged a different rate charged by such system for non-bulk residential customers receiving the same level of service received by such bulk property and (b) where such rate charged to such bulk property is not reduced as an incentive to encourage the purchase of other products or services, as determined by the Borough Manager or his/her designee.

2. Bulk Customer Rates.

- (a) Bulk customers are contractual customers. Per room, per connection charges are calculated based on the bulk formula. The Borough Manager, at his/her discretion can negotiate the price per connection based on the current situation presented.
- (b) The formula utilized to determine bulk rates unless another rate is negotiated shall be the following: Total monthly rate charged by the Borough’s System for the pertinent bulk customer for that level of service on which the service is received divided by the monthly rate charged by the Borough’s System for its non-bulk residential subscribers for that same level of cable television service received by that bulk customer.
- (c) In order to qualify for the receipt of bulk service, the landlord or business owner must have a minimum of six units connected to the Borough’s Service or six connections to the Borough’s Service.

D. TiVo® PREMIERE DVR UNIT RENTAL FEES:

- 1. The Borough reserves the right to require a \$100.00 deposit per unit for customers renting in the Borough. Deposits will be released, upon request, after 12 months. If not requested, deposits will be released when the customer cancels service and returns the

11230

TiVo unit and accessories as stated in the TiVo Service Agreement.

2. A broadband Internet connection is required for TiVo® Premiere DVR service.
3. Initial TiVo® Premiere DVR unit per household (with Bundle): See Bundle Rates
4. Each additional TiVo® Premiere DVR unit per household (with Bundle): \$15.00
5. Initial TiVo® Premiere DVR unit per household (without Bundle): \$19.99
6. Each additional TiVo® Premiere DVR unit per household (without Bundle): \$19.99
7. The Borough reserves the right to require a one-time \$25.00 Activation Fee (per unit).
8. The Borough reserves the right to require a \$25.00 Configuration and Additional Programming Fee (per unit).
9. The Borough reserves the right to charge the current market price for the replacement of lost/stolen TiVo® Premiere DVR unit or remote control.

E. TiVo® PREMIERE Q DVR UNIT RENTAL FEES:

1. The Borough reserves the right to require a \$100.00 deposit per unit for customers renting in the Borough. Deposits will be released, upon request, after 12 months. If not requested, deposits will be released when the customer cancels service and returns the TiVo unit and accessories as stated in the TiVo Service Agreement.
2. A broadband Internet connection is required for TiVo® Premiere Q DVR service.
3. Initial TiVo® Premiere Q DVR unit per household (with Bundle): See Bundle Rates
4. Each additional TiVo® Premiere Q DVR unit per household (with Bundle): \$15.00

5. Initial TiVo® Premiere Q DVR unit per household (without Bundle): \$19.99
6. Each additional TiVo® Premiere Q DVR unit per household (without Bundle): \$19.99
7. The Borough reserves the right to require a one-time \$25.00 Activation Fee (per unit).
8. The Borough reserves the right to require a \$25.00 Configuration and Additional Programming Fee (per unit).
9. The Borough reserves the right to charge the current market price for the replacement of lost/stolen TiVo® Premiere Q DVR unit or remote control.

F. TiVo® PREVIEW UNIT RENTAL FEES:

1. The Borough reserves the right to require a \$100.00 deposit per unit for customers renting in the Borough. Deposits will be released, upon request, after 12 months. If not requested, deposits will be released when the customer cancels service and returns the TiVo unit and accessories as stated in the TiVo Service Agreement.
2. A broadband Internet connection is required for TiVo® Preview.
3. TiVo® Preview, per unit, per household: \$10.00
4. The Borough reserves the right to require a one-time \$25.00 Activation Fee (per unit).
5. The Borough reserves the right to require a \$25.00 Configuration and Additional Programming Fee (per unit).
6. The Borough reserves the right to charge the current market price for the replacement of lost/stolen TiVo® Premiere Q DVR unit or remote control.

Section 2. Data/Internet Services.

A. Commercial Bulk Bandwidth

1. Internal use rate: \$80.00 per mb
2. Retail (resell) rate: \$90.00 per mb

B. Static IP address/Email address

11232

1. \$10 per month per IP address
 2. Additional email address after the first two: \$1.50 each address, per month
- C. Residential Rates
- | | | |
|----|-----------|---------|
| 1. | 2mb x 8mb | \$27.50 |
| 2. | 3mb x 8mb | \$35.50 |
| 3. | 4mb x 8mb | \$42.50 |
| 4. | 6mb x 8mb | \$67.50 |
| 5. | 8mb x 8mb | \$80.00 |
- D. Data/Internet services offered by the customer for resale
1. Fees shall be negotiated as part of an agreement with the data/Internet customer.
 2. Business class data/Internet services. Business class services are offered to customers that require multiple static IP addresses, priority bandwidth or other special data/Internet service which are not included in the Borough's regular offerings.
 3. Fees shall be negotiated as part of an agreement with the Business class data/Internet customer.
- E. Point-to-Point Virtual Private Network Service. In the event that a customer requests a virtual private network path, which utilizes the Borough's fiber optic communications network to make a point-to-point connection to another specific network, the charge shall be as follows:
1. \$150.00 per point-to-point connection, per month
- F. Above fees apply to each data port.
- G. Digital Phone Service – Borough Internet service required.
1. Residential Rate Per Month: \$28.65
 2. Additional fees and surcharges are not included.

3. International phone calls will be billed at market rate, plus fifteen percent, based upon a schedule of rates, which will be kept on file in the Borough's administrative office.

4. Commercial Digital Telephone Rates:
 - A. Office Voice
 - i. Office Voice Unlimited \$35.00/mo.
 - ii. Fax/Lobby Line Unlimited \$18.50/mo.
 - iii. Auto Attendant (incl. unl. line) \$50.00/mo.
 - iv. Activation \$22.00

 - B. Integrated Voice
 - i. Trunk Rate (all outbound) \$13.95/mo.
(\$0.03 per min.)
 - ii. Trunk Rate (outbound domestic ltd.) \$19.50/mo.
(\$0.03 per min.)
 - iii. DID (ratio 10:1) \$0.30 per min.
(over billed at \$0.70 per min.)
 - iv. Activation Fee (per Trunk) \$22.00

 - C. Hosted Voice
 - i. Unlimited Seat \$13.50/mo.
 - ii. Extension Only \$12.00/mo.
 - iii. Call Path (5,000 min. outbound, pooled) \$16.50/mo.
 - iv. Fax/Lobby Line (incl. 200 min.) \$16.50/mo.
(\$0.03 after 200 min.)
 - v. Music on Hold (per location) \$5.75/mo.
 - vi. Instant Call Group \$6.00/mo.
 - vii. Auto Attendant (includes call path) \$39.95/mo.
 - viii. Activation (per line/seat) \$22.00

 - D. Other Items
 - i. Toll free (business only) \$6.00/mo.
\$.065/min.
 - ii. Account Codes \$6.00/mo.

 - E. Per Call Charges
 - i. Operator Assisted \$3.75/mo.
 - ii. Directory Assisted \$1.25/mo.

5. Additional fees and surcharges are not included.

6. International phone calls will be billed at market rate, plus fifteen percent, based upon a schedule of rates, which will be kept on file in the Borough's administrative office.

11234

Section 3. Voice Tariff.

A tariff is hereby established, in the form, at the rates and on the conditions as set forth in the agreement between the voice carrier and the Borough.

Section 4. Installation, Service and Repair Rates.

As established from time to time by Resolution of the Borough Council.

Section 5. Miscellaneous Fees, Charges and Services.

- A. Charge for Cost of Reconnection of Customer for any reason:
\$35.00
- B. Fees for Maxatawny Township customers
 - 1. A regulatory fee of \$5.00 a month shall be charged to all service subscribers residing in Maxatawny Township.
 - 2. A franchise fee of 3% of the total monthly cable bill shall be charged to all service subscribers residing in Maxatawny Township.
- C. Hardware Charges
 - 1. Customers of the Borough's Video/Television, Internet and other Fiber Optic services may desire or require additional hardware from time to time to facilitate their needs and such hardware shall be sold to the customer at a rate to be determined by the Borough depending on the nature of the hardware.

Section 6. Customer Service Changes.

Customers may make an unlimited number of service upgrade or downgrade changes and may upgrade or downgrade their service selections at any time. A proration of service fees and charges reflecting any upgrade or downgrade will appear on the next monthly bill.

Section 7. Customer Technical Quality Complaint Resolution.

- A. As an additional benefit to Customers of Video/Television Services, and in compliance with any applicable Federal regulations, the Borough establishes the following procedures to insure that any technical quality complaints are addressed:
1. All complaints concerning the technical quality of the Video/Television signals provided to Customers by the Borough shall be put in writing to the Borough Manager. Alternatively, the Customers may call the Network office at 610.683.5722 and speak directly with a Customer Service representative during normal business hours.
 2. On the day of receipt, complaints received will be recorded with the time, nature of the complaint and the name, address and telephone number of the complaining Customer.
 3. During normal business hours, a field technician will analyze the complaint and make an initial assessment concerning its probable cause. In most cases, complaints related to the technical quality of Video/Television Service signals will be investigated by a field technician within forty-eight (48) hours of receipt, consistent with the Borough's ability to access Customer premises, if such access is deemed necessary to resolve the complaint. If the problem can be resolved without a service call to the Customer's premises, Customer will be advised of this immediately and the resolution of the complaint will be noted in the log book which is maintained by the Borough Manager.
 4. All efforts will be made by Borough field technicians and other employees or consultants or contractors to promptly resolve any complaints concerning the technical quality of Video/Television Service. If the Borough's field technician fails to correct the problem after the Customer has notified the Network office, the Customer may contact the Borough Manager in writing to review the complaint and the corrective action taken. If no further action to correct the problem is possible, the Customer will be promptly informed of this determination and the reasons. If the Customer believes the Borough's investigation and handling of a complaint is deficient in some manner, the Customer may appeal in accordance with Chapter 12 of the Code of the Borough of Kutztown.

Section 8. Billing Disputes.

If a Customer believes a bill is in error or has a billing complaint, the Customer shall contact a Borough Network Service representative at the Borough Municipal

11236

Building, 45 Railroad Street, Kutztown, PA 19530 or telephone the representative at 610.683.5722. If the dispute is not resolved to the Customer's satisfaction, the Customer may appeal in accordance with Chapter 12 of the Code of the Borough of Kutztown.

Section 9. Third Party Billing Services.

In those instances where a third party is engaged in the billing of customers for services, including, without limitation, installation charges, the Borough reserves the right to regulate the billing practices of such third parties regarding the services.

Section 10. Video Advertising Rates.

Television advertising rates are as follows: \$5.00 per week for a maximum of two slides and \$2.50 per week for each slide over two slides of advertising.

Section 11. Web Hosting and Training Sessions.

In the event that a Customer requests the Borough host Web site services, and from time to time schedules internal training programs, the Borough agrees to do so as long as the Customer is an active customer of Internet Services. The charges therefore shall be as follows:

- A. Set-up and configuration of Web-service folders, directory and security access.
 - 1. A one-time setup fee of \$15.00 per domain (Web site) (applies to Basic, Expanded 25, Expanded 50).
 - 2. Monthly fee based on selected package.
 - (a) Basic Package: 10mb of storage space; one FTP user account; 24/7 technical support; daily backup: \$15.00 per month
 - (b) Expanded 25 Basic Package: 25mb of storage space; one FTP user account; 24/7 technical support; daily backup: \$20.00 per month.
 - (c) Expanded 50 Basic Package: 50mb of storage space; one FTP user account; 24/7 technical support; daily backup: \$25.00 per month.
- B. Web site design, personal Web page development.
 - 1. The cost of the personal Web page and class is \$35.00.

- 2. Free up to one MB personal HTML page.

Section 12. Additional Ethernet Data Port.

In the event that a Customer requests a telecommunication service from the Borough that requires an additional Ethernet data port be installed, the Borough of Kutztown shall purchase and install the additional port. Once installed, the port shall become the property of the customer. The charges therefore shall be as follows:

- A. A one-time purchase fee of \$20.00 (in addition to the regular monthly service fees).

Section 13. Wireless Internet Access for Telecommunications Customers.

In the event that a Customer requests access to the Borough’s Internet service by wireless access, the Borough will provide access, provided the Customer is an active Internet Customer. There shall be different classes of wireless customers as follows:

- A. Bulk Wireless Customers - these customers are provided access to the Borough’s wireless Internet service for use by a third party.
 - 1. Fee shall be negotiated as part of an agreement with the bulk wireless customer.
- B. Wireless Customers - these customers are current telecommunications customers, who are purchasing at least one telecommunications service from the Borough of Kutztown, and are provided access to the Borough’s wireless Internet service as part of their service subscription.
 - 1. Fee reserved.

Section 14. Wireless Internet Access for Non-Telecommunications Customers.

- A. Pay-As-You-Go Users:
 - 1. One day 24-hour service \$6.00
 - 2. Seven day service \$15.00
 - 3. Fourteen day service \$25.00
 - 4. Thirty day service \$35.00

SECTION 2. The Service rates as set forth herein shall become effective on February 1, 2013.

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

11238

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

SECTION 4. The rates and services, as set forth herein shall become effective as noted above. All such rates and services shall thereafter continue in effect until the same are changed by action of the Council of the Borough of Kutztown.

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 15th day of January, 2013.

Passed by unanimous vote.

Under Water and Wastewater Committee, a motion was made by Mr. Schlegel, seconded by Mr. Eidle, Resolved, To approve payment #3 to Wickersham Construction and Engineering, Inc., for work completed at the Wastewater Treatment Plant, in the amount of \$124,806.00. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Mr. Eidle, Resolved, To accept the 12" water main improvements on College Boulevard installed by Cedar Shopping Centers, Inc. Passed by unanimous vote.

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

RESOLUTION NO. 3-2013

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:

1. General Municipal Law Services (all matters not described in II below)

Solicitor and Solicitor's Partners	\$178.50
Associates in Solicitor's Office	\$162.75
Paralegals in Solicitor's Office	\$94.50
Other Legal Consultants	
Such fees, charges and expenses shall be the same as the charges incurred by the Borough for such Legal Consultants.	

2. Specialized Services (travel time to be charged only from Reading office)

	Partner	Associate	Paralegal
Telecommunications	\$220.50	\$194.25	\$94.50
Labor/Employment/Benefits	\$220.50	\$194.25	\$94.50
Environmental	\$220.50	\$194.25	\$94.50
Litigation (excluding (i) code enforcement; (ii) zoning; and (iii) minor collection/eviction matters, in each case not involving other issues, claims or counterclaims)	\$220.50	\$194.25	\$94.50
Municipal Finance (bonds)	Fees negotiated per transactions		

SECTION 2 - Engineering Consultants

Hourly rates shall be as listed below:

11240

1. Borough Water/Wastewater and Planning/Zoning Engineer and Staff	
Administrative Support	\$40.00
Technician; Project Support	\$64.00
CAD Drafter; Specialist I	\$75.00
Designer; Land Surveyor; Planner I; Project Representative; Specialist II	\$87.00
Senior Designer; Senior Land Surveyor; Planner II; Senior Project Representative; Specialist III	\$99.00
Engineer; Geologist; Planner III; Specialist IV	\$109.00
Technical Manager; Senior Engineer; Senior Geologist; Senior Planner; Specialist V	\$119.00
2. Borough Electrical Engineering Consultants	
Principal	\$100.00
Senior Professional	\$95.00
Project Manager	\$85.00
Engineer	\$70.00
Designer	\$55.00
CADD Operator	\$45.00
Support Staff	\$35.00
3. Borough Transportation Engineering Consultants	
Rod Person; Engineering Aide	\$36.00-\$ 40.00
Word Processor	\$44.00-\$ 48.00
Technician; Administrative Assistant	\$54.00-\$ 56.00
Instrument Person; Survey Party Chief	\$67.00-\$ 70.00
Registered Surveyor	\$90.00-\$ 92.00
Design Drafter/Design Technician	\$82.00-\$ 86.00
Senior Technician	\$86.00-\$ 90.00

Construction Observer; Code Officer	\$75.00-\$ 78.00
Engineer/Designer	\$84.00-\$ 92.00
Senior Designer	\$97.00-\$101.00
Project Engineer	\$101.00-104.00
Project Manager; Senior Construction Observer	\$104.00-107.00
Senior Project Engineer; Senior Planner; Senior Project Manager; Senior Architect; Technical Manager; Principal	\$111.00-118.00
CAD Time	\$12.00
Travel – Mileage Rate	\$0.565 per mile*

(*The rate established by the IRS changes periodically, and the actual travel rate will be the rate allowed by the IRS.)

4. 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.

11242

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 15th day of January, 2013.

Passed by unanimous vote.

President Snyder noted the following vacancies:

Kutztown Transportation Authority:	One Member Vacancy
Borough Planning Commission:	One Member Vacancy
Code Appeals Board:	One Member Vacancy
	One Alternate Vacancy
Housing License Appeals Board:	One Member Vacancy
	Three Alternate Vacancies
Zoning Hearing Board	Two Alternate Vacancies
Environmental Advisory Commission:	Three Member Vacancies
Telecommunications Advisory Commission:	Two Member Vacancies

Off of the agenda, a motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To hold a Special Council meeting on February 12, 2013, at 7:30 p.m., in the Kutztown Municipal Building Multi-Purpose Room, for the purpose of taking action on the proposed Ordinance amending the fees and compenation for the Borough Tax Collector. Passed by unanimous vote.

President Snyder called for an Executive Session at 8:17 p.m. to discuss personnel and legal matters. The Executive Session ended and the meeting reconvened at 8:52 p.m.

Mr. Eidle noted that the Filter Plant Performance Evaluation (FPPE) of the Borough's Water Treatment Plant revealed no major problems in 2012, that the Borough achieved a rating of Commendable from the Department of Environmental Protection, and that the Water Treatment Plant's FPPE rated in the top fourteenth percentile.

A motion was made by Mr. Schlegel, seconded by Ms. Birckbichler, Resolved, To send a thank you letter to each of the Water Department employees because of the FPPE report. Passed by unanimous vote.

A motion was made by Mr. Schlegel, seconded by Mr. Seyler, Resolved, To adjourn the Council meeting upon vote. Passed by unanimous vote. The meeting ended at 8:54 p.m.

Prepared and Attested by: Gina M. Wiand
Borough Secretary

Kevin Snyder and Gina Wiand hereby ordered payment of the expenditures listed in the Accounts Payable G/L Distribution Report, including payment dates from December 14, 2012 to January 4, 2013, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

Kevin Snyder

Gina M. Wiand