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January 15, 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, Mr. Brendan Strasser, Mr. James Schlegel, Mr. Mark Gangewere, Mr. Kevin Snyder, Student Ambassador Steven Kenney and Mayor Sandy Green. Mr. Keith Mooney, representing the Borough Solicitor; Mr. Jaymes A. Vettraino, Borough Manager/Treasurer; Mr. Richard F. 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, Director of Planning and Zoning; Ms. Rachael Birckbichler, Community Development Director; Mr. Frank P. Caruso, Director of Information Technologies; Bonnie Bray, Borough Secretary/Human Resources Director; Filbert Grim, Jr. and Joe Pasquale of Saucony Cross; Jay Druckenmiller of Kutztown; Julie Nolan of Kutztown University; Michelle Park, reporter for the Reading Eagle; and Lisa Mitchell, reporter for The Kutztown Area PATRIOT were also present.

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

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

- Review and accept the Borough Community Development and Public Safety Report for December, 2007.
- Review and accept the Borough Community Development and Public Safety Quarterly Report for period ending December, 2007.

- Approve the request from the Optimist Club of Kutztown for the use of the Kutztown Park for its annual Easter Egg Hunt on March 22, 2008, with two alternate rain/snow dates of March 23 and 29, 2008. The request includes the use of the brick pavilion, hockey court, bathrooms, part of the tennis court, the hill, and the use of barricades.
- Award the bid for supplying Borough personnel with work uniforms to Unifirst Corporation for a term of three years.
- Authorize the advertisement and hiring of a Codes Inspector.
- Take action to adopt the Flexible Benefits Plan Summary for the AFLAC insurance benefits as an addendum to the Borough's Section 125 plan document.
- 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 15, 2007, to January 11, 2008, as summarized below:

General Fund	\$163,038.95
Refuse and Recycling Fund	59,097.47
Fire Protection Tax Fund	325.00
Recreation Tax Fund	865.80
Road Tax Fund	865.80
Water Fund	100,135.08
Electric Fund	394,026.48
Sewer Fund	125,334.13
Telecommunications Fund	55,418.25

Under Borough Planning Commission, Mr. Strasser reported on two off-agenda items. First, the Borough received a letter of resignation from Paul Vasko; and secondly, the Borough received an application from John Loomis for consideration as a member on the Planning Commission.

A motion was made by Mr. Strasser, seconded by Mr. Snyder, Resolved, To accept the letter of resignation from Planning Commission member Paul Vasko, with regret. Passed by unanimous vote.

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A motion was made by Mr. Strasser, seconded by Mr. Snyder, Resolved, To appoint Mr. John Loomis to the Planning Commission, whose term shall expire in December, 2011. Passed by unanimous vote.

Under Community Development Committee, a motion was made by Mr. Strasser, seconded by Mr. Snyder, Resolved, To adopt the following Resolution:

Resolution No. 5-2008

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA AMENDING PORTIONS OF §A231-1 OF CHAPTER A231 OF THE CODE OF THE BOROUGH OF KUTZTOWN, ENTITLED `ENUMERATION OF FEES, TO PROVIDE FOR THE FIXING OF CERTAIN FEES, AS PROVIDED FOR IN THE CODE OF THE BOROUGH OF KUTZTOWN.

IT IS HEREBY RESOLVED by the Council of the Borough of Kutztown, County of Berks, Commonwealth of Pennsylvania, to amend and restate certain specific fee provisions set forth in §A231-1 of Chapter A231 of the Code of the Borough of Kutztown as follows:

§A231-1.5. Ch. 107, Electrical Standards

(B) Section 107.6, Borough permit inspection fees

(2) Inspection fee per permit: \$50.

(NOTE: Not applicable for inspections required by Ch. 135.)

BE IT FURTHER RESOLVED that, except to the extent of the specific fees which are amended as set forth hereinabove, 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.

BE IT FURTHER RESOLVED that the above-listed amended fees shall become effective on the earliest available date. All such fees shall thereafter continue in effect until the same are changed by action of the Council of the Borough of Kutztown.

BE IT FURTHER RESOLVED that 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 a lawful session duly assembled this 15th day of January, 2008.

Passed by unanimous vote.

A motion was made by Mr. Strasser, seconded by Mr. Snyder, Resolved, To approve the release of escrow funds for Phases I and II of the Hilltop Estates Subdivision requested by Grande Construction Company in the amount of \$217,954.44, as recommended by the Borough Engineer. Passed by unanimous vote.

Under Public Safety Committee, Mayor Green submitted the Police Report for the month of December, 2007, copies of which were given to Council.

Mr. Gangewere reported the following fines were collected:

District Justice Greth	November, 2007	\$15,186.50
Clerk of Common Pleas	November, 2007	\$345.56
Secretary's Office	December, 2007	\$5,380.00

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

RESOLUTION NO. 6-2008

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF KUTZTOWN, BERKS COUNTY, PENNSYLVANIA, ADOPTING THE EMERGENCY OPERATIONS PLAN FOR THE BOROUGH OF KUTZTOWN.

WHEREAS, Federal and state laws mandate that a government follow the next higher level of government's Emergency Operations Plan (EOP) format; and

WHEREAS, in response to the mandate stated above, the Chief Counsel of the Pennsylvania Emergency Management Agency has approved a model EOP to provide prompt and effective emergency response procedures to be followed in the event of a major emergency or disaster; and

WHEREAS, the Borough of Kutztown adopted this new model EOP on June 3, 2003;

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WHEREAS, it was mandatory for all municipalities to repromulgate the EOP in 2008; and

NOW, THEREFORE BE IT RESOLVED, That the Council of the Borough of Kutztown, Berks County, Pennsylvania, does hereby repromulgate the Emergency Operations Plan (EOP) as approved by the Chief Counsel of the Pennsylvania Emergency Management Agency and as adopted by the Council of the Borough of Kutztown on June 3, 2003, and as repromulgated February 20, 2007.

DULY ADOPTED AS A RESOLUTION this 15th day of January, 2008, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled.

Passed by unanimous vote.

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

ORDINANCE NO. 1-2008

AN ORDINANCE OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA AMENDING CHAPTER 212 OF THE KUTZTOWN CODE, ENTITLED "VEHICLES AND TRAFFIC", BY AMENDING AND RESTATING §§212-7(R), 212-28(M)(1), 212-28(M)(2), 212-28 (M)(3), 212-28(N), 212-28(O), 212-32(A), 212-32(B), §212-43(A), 212-44(A), 212-56(A) AND 212-56(B).

Passed by unanimous vote.

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

RESOLUTION NO. 7-2008

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA AMENDING THE KUTZTOWN CODE SO AS TO AMEND §§A231-1.17(A), A231-1.17(B), A231-1.17(C)(1), A231-1.17 (C)(2), A231-1.17(D), A231-1.17(F), AND A231-1.17(G).

WHEREAS, §A231-1.17 of the Kutztown Code sets forth provisions for penalties for certain traffic and vehicle violations, and

WHEREAS, the Council of the Borough of Kutztown desires to revise §§A231-1.17(A), A231-1.17(B), A231-1.17(C)(1), A231-1.17 (C)(2), A231-1.17(D), A231-1.17(F), and A231-1.17(G) of the Kutztown Code so as to amend certain penalties for vehicle and traffic violations.

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 §§A231-1.17(A), A231-1.17(B), A231-1.17(C)(1), A231-1.17(C)(2), A231-1.17(D), A231-1.17(F), and A231-1.17(G) of the Kutztown Code are amended as follows:

§A231-1.17. Ch. 212, Vehicles and Traffic.

- A. Section 212-13.1, Penalties for violations of proclamations issued by Mayor (other than penalties for violations covered by the Vehicle Code of the Commonwealth of Pennsylvania or other sections of 212): \$25.
- B. Reserved
- C. Sections 212-27 through 212-31, penalty for parking violation other than § 212-28(M) and § 212-28 (N) Person with a Disability and Disabled Veterans.
 - (1) Penalty: \$25.
 - (2) If not paid within 20 days from the date that the violation notice was served shall make the owner or operator subject to the penalty for the violation equal to two times the amount due.
- D. Section 212-28(M) (2) and 212-28(M) (3) and 212-28(N), handicapped persons and disabled veterans, penalty for parking violation: \$50 minimum to \$200 maximum.
- E. Section 212-39, residential parking permits and renewals: \$10.
- F. Reserved
- G. Section 212-57, penalty for snow emergency route violation: \$50.

BE IT FURTHER RESOLVED that, if any provision, sentence, clause, section or part of this resolution shall for any reason be found 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 that this resolution would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not be included herein.

BE IT FURTHER RESOLVED that all resolutions or parts of resolutions and all existing portions of the Kutztown Code inconsistent herewith are hereby repealed.

BE IT FURTHER RESOLVED that this resolution shall become effective upon adoption.

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DULY ADOPTED AS A RESOLUTION this 15th day of January, 2008, by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled.

Passed by unanimous vote.

Under Public Works Committee, Mr. Snyder had nothing to report.

Under Personnel Committee, a motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To accord full-time employment to Ron Stoudt, Telecom Tech I, effective January 2, 2008. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Snyder, Resolved, To accept the resignation of Naaman Schlegel, effective January 11, 2008, with regret. Passed by unanimous vote.

The Executive Session to discuss a non-uniformed personnel matter was postponed until the end of the meeting.

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

RESOLUTION NO. 8-2008

A RESOLUTION OF THE BOROUGH OF KUTZTOWN, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER A231 OF THE CODE OF THE BOROUGH OF KUTZTOWN, ENTITLED `FEES,` SO AS TO AMEND §A231-1.6. CH. 110, FIBER OPTIC COMMUNICATIONS NETWORK, TO ADD A NEW PART 17 THERETO.

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; 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

WHEREAS, the Borough Council desires to offer a point-to-point virtual private network service, at the request of a customer.

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. Section A231-1.6, entitled Ch. 110, Fiber Optic Communications Network, of Chapter A231 of the Code of the Borough of Kutztown is hereby amended so as to add a new Part 17 thereto, as follows:

§A231-1.6 Ch. 110, Fiber Optic Communications Network

Q. Part 17. Point-to-Point Virtual Private Network Service. In the event that a Consumer 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) \$85.00 per point-to-point connection, per month

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

SECTION 3. If any provision, sentence, clause, section or part of the 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 the Resolutions, 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. Except to the extent of the specific matters which are set forth hereinabove, 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.

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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.

FURTHER RESOLVED, that the Council President, Borough Secretary, Borough Manager and other officers, employees and agents of the Borough of Kutztown are authorized to take or cause to be taken such actions as they deem necessary or advisable to perform and effectuate the terms and provisions of the foregoing Resolution and to effectuate the purposes and intentions of the foregoing Resolution, including, but not limited to, the execution of documents and instruments for the delivery of the above-described products and services, and all actions heretofore taken by any such officers, employees and agents with respect to the subject matter of the foregoing Resolution are hereby ratified and affirmed.

ADOPTED by the Council of the Borough of Kutztown, Berks County, Pennsylvania, in lawful session duly assembled this 15th day of January, 2008.

Passed by unanimous vote.

Under Water and Wastewater Committee, Mr. Schlegel had nothing to report.

Additional off-agenda items:

Mr. Strasser asked to clarify a vote that was taken at the December 18, 2007, Council meeting, with regard to the motion whereby Council granted a five-year payment plan for an outstanding water and sewer bill for the property located at 251 Trexler Avenue. He and Mr. Snyder voted against the motion because they both felt that the action which Council took didn't go far enough. He and Mr. Snyder were in favor of the five-year payment plan but both of them wanted to go further than that. Mr. Strasser requested that future credit requests for utilities be placed under the regular agenda, rather than the Consent Agenda. A motion was made by Mr. Strasser, seconded by Mr. Snyder, Resolved, To place all future utility credit requests under the appropriate Committee on the regular Council meeting agenda. Passed by unanimous vote. Mr. Strasser reported that as of this date, the public contributed \$500.00 toward the Werley water bill. He

thanked the individuals who have made monetary donations on behalf of the Werley account. Mr. Vettrano advised that the Borough is waiting to hear from Mrs. Werley for direction with regard to the donations.

Mr. Vettrano reported that the ongoing sludge application and food processing residual taking place at a farm property near the Borough's wells is still a major issue for the Borough. He met with Congressman Gerlach and Representative Mantz. The issue is considered as a very high priority, and the Borough is looking at ways to better protect its wells from potential hazards, such as this.

President Eidle called for an Executive Session at 7:45 p.m. to discuss a nonuniformed personnel matter. The Executive Session ended, and the meeting reconvened at 8:30 p.m.

A motion was made by Mr. Seyler, seconded by Mr. Schlegel, Resolved, To uphold the Borough Manager's action to suspend Kristine Polster without pay from January 10, 2008 through January 15, 2008, And Be It Further Resolved, To accept Kristine Polster's letter of resignation dated January 15, 2008, and to authorize the appropriate Borough officials to execute the General Release and Settlement Agreement with Kristine Polster. Passed by unanimous vote.

A motion was made by Mr. Seyler, seconded by Mr. Gangewere, Resolved, To authorize the Borough Manager and the Human Resources Director to revise the Police Secretary position description for Council's ratification at the next Council meeting. Passed by unanimous vote.

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A motion was made by Mr. Seyler, seconded by Mr. Gangewere, Resolved, To authorize the advertisement and hiring of a police secretary with subsequent ratification by Council. Passed by unanimous vote.

Under Miscellaneous, there was nothing to report.

A motion was made by Mr. Gangewere, seconded by Mr. Schlegel, Resolved, To adjourn the meeting at 8:31 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 December 15, 2007, to January 11, 2008, in accordance with Section 1106 of the Borough Code, Commonwealth of Pennsylvania.

Malcolm A. Eidle

Bonnie Bray