



CITY COUNCIL

Work Session

***Work Session
Penn Room***

***Monday, August 17, 2009
7:00 P.M.***

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|--------------------------------------------------------------|------------------|
| I. Call To Order | 7:00 p.m. |
| II. Managing Director's Report | 7:05 p.m. |
| <hr/> | |
| III. HARB Appeal Hearing - 11-15 S. 5th St | 7:15 p.m. |

1. Purpose

To approve or deny the application for a certificate of appropriateness submitted by Dominic Lavigna to retain a shop sign for his Pawn Shop located in the 000 block of S. 5th Street, attached to 500 Penn Street, located in the Callowhill Historic District

HARB determined that the proposed projects were inappropriate pursuant to the Secretary of Interior Historic Architecture Preservation guidelines. The applicants have appealed the decision to Reading City Council.

The hearing will have three components 1) Testimony from Applicant 2) Findings of Fact from Historic Preservation Specialist 3) Council Cross Examination. City Council will adopt a resolution either approving or denying the appeal at a Regulation Meeting of Council on either August 24th or September 14th

2. Oath to All Parties Testifying

3. Testimony from Applicant - Domenic Lavigna

4. Findings of Fact Historic Preservation Specialist

5. Property Owner/Applicant Rebuttal

6. Cross Examination by Council

7. Public Comment

8. Expected Date of Decision

III. Update - Rental Housing Process (Codes & Zoning) 8:00 p.m.

Pagoda rental fees 8:00 p.m.

IV. Zoning Fee Increases - 8:15 p.m.

Zoning revenue at current rates - \$113,400.and revenue at the rate recommended by Maximus - \$157,330

V. Review Business Privilege Tax Ordinance 8:30 p.m.
Discussion on adding license revocation language

VI. Adjourn

City of Reading

City Council

Work Session

Monday, July 20, 2009

Councilors Attending: V. Spencer, S. Fuhs, M. Goodman-Hinnershitz, D. Sterner, M. Baez, J. Waltman

Others Attending: L. Kelleher, C. Younger, R. Hottenstein, C. Weidel, E. Overly, J. Oehler, W. Rehr, W. Heim, B. Pease, C. Heminitz, F. Reddig, M. Kelly

Mr. Spencer called the work session to order at 7p.m.

Managing Director's Report

Mr. Hottenstein reviewed the report distributed to Council at the meeting covering the following:

- Update on Council Complaints.
- Sunday music in Centre Park
- Update on Bandshell Concerts

Ms. Goodman-Hinnershitz thanked Mr. Hottenstein for his follow-up on the use of ATV's on Neversink Mountain.

Mr. Fuhs thanked the Administration and Land Display employees for their work on the neighborhood complaints concerning the billboard at Route 10 and Lancaster Avenue.

Act 47

Fred Reddig from the DCED stated that he began working for the DCED in the mid-1980s under the former Mayor Karen Miller. He stated that Act 47 was established in 1987 and was assigned to him.

Mr. Reddig stated that prior to entering Act 47 cities must first enter the early intervention

program (EIP). He stated that upon entering into this initial stage, distressed cities are assisted with developing a curative plan. He stated that Act 47 is in place for cities who cannot correct their deficiencies through the EIP process. He explained that Act 47 was developed to:

- Assist with providing for the health, safety, and welfare of residents
- Pay principle and interest debt, this with creditor obligations
- Implement proper accounting, budget, and tax collection practices

Mr. Reddig explained that distressed cities usually fall in one of the following three categories:

- A sudden economic downturn or natural catastrophe
- Long term economic decline, population loss which may be combined with large legacy costs.
- Management deficiencies and lack of adequate management systems.

Mr. Reddig stated that cities must meet at minimum one of the following criteria, such as:

- Maintain the deficit over a three (3) year period, with a deficit of 1% or more in each of the previous fiscal years.
- Expenditures have exceeded revenues for a period of three (3) years or more.
- Default in payments of principal or interest on bonds or notes or in payment of rentals due any authority.
- Miss payroll for 30 days
- Fail to make required payments to creditors
- Experience a decrease in the quantified level of municipal service in a fiscal year, which has resulted from municipality reaching its legal limit in levying real estate taxes.

Mr. Fuhs inquired about the definition of revenue. Mr. Reddig replied that the definition of revenue can be found in the Act. Revenue is defined as additions to fund equity other than from inter fund transfers, proceeds of debt, and proceeds of disposition of general fund assets.

Mr. Reddig stated that of the 24 Pennsylvania municipalities who have entered Act 47, only West Fall Township has entered into Chapter 9 bankruptcy. Mr. Reddig stated that the following have standing to request a determination of municipal financial distress from the secretary of the DCED:

- DCED
- The governing body of the municipality
- The chief executive officer (Mayor) of the municipality

- A creditor with a mature claim, who's owed \$10K or more
- 10% of number of electors who voted at the last municipal election
- 10% or more of the beneficiaries of a pension fund
- 10% of the employees of the municipality
- Elected Auditor

Mr. Reddig stated that the petition must, at a minimum, set out and document at least one of the 11 triggers. Following the petition DCED will then review to validate the presence of the criteria by the requestor. The DCED will next hold a public hearing at the municipality to allow for input of the stake holders. The secretary will then make a decision on the acceptance or the rejection of the Act 47 petition. Should the petition be accepted, the secretary of the DCED will appoint a coordinator, usually a consultant hired by the DCED, to assist with the development of a multi-year fiscal recovery plan. This plan must be adopted by the municipality. Should the municipality fail to adopt the plan prepared by the coordinator, the municipality must prepare and adopt its own plan.

Mr. Reddig stated that Act 47 is not a takeover or a bailout. He stated that a recovery plan generally takes five (5) months to develop. After the development of the financial recovery plan a second public hearing is held to obtain more input from the municipalities' stakeholders. He noted that the plan can be modified after the hearing. He noted that any municipal recovery plan must be approved by the secretary of the DCED.

Mayor McMahon arrived at the meeting.

Mr. Reddig stated that the recovery plan is developed as a triage to stabilize and address issues faced by the municipalities and develop a long-term economic development/community development strategy. He noted that the process works best with good cooperation and leadership.

Mr. Reddig stated that since 1987, 24 municipalities have entered into Act 47; however only six (6) municipalities were successfully recovered.

Mr. Reddig stated that the upside of Act 47 is the availability of emergency loans at zero percent (0%) interest. He stressed that these loans need to be repaid. He noted that Act 47 does not alter existed collective bargaining agreements. He stated that Act 47 works to contain costs, identify new revenue resources, and improve revenue collection.

Mr. Reddig stated that some of the key provisions of Act 47 are:

- Expansion of taxing authority

- Prohibiting new bargaining agreements that violate provisions of the plan (several public decisions have upheld the plans parameters in collective bargaining negotiations and litigations)
- Priority placement for economic and community development funding

Mr. Reddig stated that the some of the challenges with Act 47 are as follows:

- Uncertain recovery time
- Difficulties affecting collective bargaining agreement contract changes
- Obtaining participation by the school district
- Unwillingness of adjacent municipalities to cooperate

Mr. Reddig noted that the 24 municipalities who have entered into Act 47 represent only one percent (1%) of all municipalities in Pennsylvania.

Mr. Spencer thanked Mr. Reddig for agreeing to come and speak to City Council about the Act 47 process. He noted the importance of educating the body of Council, employees, and the public. He noted that he asked Ms. Kelleher to invite Mr. Reddig to the July Work Session to educate Council in June.

Mr. Cituk inquired about the availability of applying a wage tax on non-city residents. Mr. Reddig explained that with the super-imposition of Act 47 onto of the Act 511 regulations, the City can impose a higher rate for non-city residents, if court approval is received. However the rate applied must be lower than the rate municipality is charging for to its residents.

Mayor McMahan inquired if EIP phases one and two have increased the filing of Act 47. Mr. Reddig stated that only two (2) municipalities who have entered the EIP process have filed Act 47; Nanticoke and New Castle.

Mr. Waltman expressed the belief that Act 47 is reactive as it does not require municipality to do what it needs to do. He stated that municipalities could use some leverage to take the right steps.

Mr. Spencer requested that if members of Council have questions those questions can be passed through to Mr. Reddig through the Council office. Mr. Spencer again thanked Mr. Reddig and Ms. Kelly for their tutorial on Act 47.

Mayor McMahan left the meeting.

Animal Control Ordinance

Mr. Spencer introduced Barrie Pease, representing the Animal Control Board and the Animal Rescue League. He stated that the amendment before Council includes adding aggressive dog language that is non-breed specific, adding regulations on the number of pets per household, adding a permit fee for exotic pets, and adding clarifying language concerning reporting of dog bites and quarantine.

Mr. Fuhs inquired how the Animal Control Board arrived at six (6) pets per household. Mr. Pease stated that the Animal Control Board studied ordinances used by other cities. He stated that the majority are more restrictive and allow fewer animals per household. He stated that the Animal Control Board decided to provide a less restrictive process, use a six (6) animal limit, and provide for a permit process, which will allow responsible owners to keep more than six (6) animals.

Mr. Fuhs handed out a document noting a Pennsylvania Supreme Court decision in mid-1990's that calls restricting the number of animals per household unconstitutional in Pennsylvania. He requested that this ordinance be returned to the Public Safety Committee for further review.

Mr. Pease noted that in Pennsylvania households can have up to 25 dogs. Households that own more than 26 dogs must have a kennel license. He expressed the belief that this responsible amendment to the local ordinance is focused on safety and welfare of neighboring properties and the animals themselves. He stated that as the majority of City homes are smaller row homes they can be negatively impacted by properties that house too many animals. Mr. Fuhs expressed the belief that this ordinance goes too far and recommended that another approach be identified.

Mr. Sterner noted that this ordinance does not limit the number of animals per household but regulates the number of animals per household. He stated that if the property owner can show his ability to properly care and maintain a larger number of animals a permit can be obtained.

Mr. Fuhs expressed the belief that this approach is arrogant.

Ms. Goodman-Hinnershitz agreed with the need to protect the health and welfare of neighboring properties while preserving the rights of others.

Mr. Fuhs asked Mr. Pease to consider handling animal issues through the City's noise and health regulations. He inquired why the ordinance does not specify limitations to only larger pets such as dogs and cats. Mr. Pease replied that the state constitution will not allow specificity against certain animals. He stated that the law has to apply to all animals. He explained the difficulties the animal control agent has enforcing health and noise regulations singularly.

Mr. Waltman expressed the belief that a better approach could be identified. Ms. Goodman-Hinnershitz noted that addition to regulation on pets, this amended ordinance also covers aggressive dogs, quarantine, and bite reporting. She asked that these issues not be held up over the regulation of pets.

Mr. Pease also noted that the amendment covers the addition of a permit fee. He stated that the existing animal control ordinance requires an exotic animal permit; however a fee is not in place. He noted that there is some opposition to the addition of an exotic animal permit fee. He stated that it was almost unheard of to have a permit without a fee to cover the administrative expenses of processing the permit.

Mr. Kelleher asked Council to consider the preventive approach the amendment to regulate the number of animals per household takes.

Mr. Spencer thanked Mr. Fuhs for assisting on the debate on this ordinance. He stated that the ordinance will again be discussed at the Public Safety Committee in August.

Update on Rental Housing

Ms. Overly and Ms. Oehler distributed a handout on the housing permit process. From a Codes perspective Ms. Overly stated that 1,520 properties are not in compliance (incomplete housing permit applications). She stated that Codes has issued to date 2,562 housing permits. She stated that 179 rental properties are awaiting zoning approval. She noted that 525 rental properties do not have a local agent assigned. She stated that to date 7,270 rental properties are in the permitting process. She stated that failure to rectify an incomplete housing permit will result in the warning sticker process whereby a yellow sticker will be placarded on the building and the property owner will have a few days to provide the Codes office with the additional information required.

From a Zoning perspective, Ms. Oehler stated that Zoning was issued 2,900 single family rental properties. Mr. Waltman expressed concern with the application of a fast track process without proper monitoring. He requested clarification.

Ms. Oehler explained one staff member checks to see if the property meets the proper criteria for the fast tracked housing process. If the criteria are met, the property is forwarded for Administrative Housing Officer (AHO) approval.

Ms. Oehler stated that 2,172 multi unit properties have received zoning approval. She explained that some properties applied to correct their zoning record, which includes a property maintenance inspection.

Ms. Goodman-Hinnershitz thanked Ms. Overly and Ms. Oehler for their work on the housing permit process. She inquired about the length of time it takes to conduct an inspection after the application is sent to Codes from Zone. Ms. Overly explained that the Codes office publishes an inspection list monthly. She stated that this includes scheduled inspections (at least one every five years) and additional inspections (Zoning correction and complaint).

Mr. Waltman suggested cranking up the penalty as many property owners are evading the process because the penalty is not stiff enough.

Ms. Overly stated that, to date, the Codes department has placarded 925 properties. These 925 properties are a combination of rental properties identified by Codes inspectors, properties identified by the Council office, and properties identified through complaints. Ms. Oehler noted the belief that word has begun to circulate that the City is cracking down on these properties. She stated that realtors are now researching prior to purchase and conducting inquiries before taking action.

Mr. Waltman noted that this process is 90 times better than what the City was doing three (3) years ago.

Ms. Overly stated that as the business privilege license requirement was eliminated to clear the back log the Codes office is now passing rental property information over to the Tax office.

The group next discussed the differing info from the Census data, the County's data book, and actuals.

City Council thanked Codes and Zoning for their work on the housing issue.

Mr. Spencer requested that this review of the housing permit process occur monthly.

Fee Recommendations

Planning Fees

Ms. Kelleher stated that there was some questions regarding the planning fee for parking lot review every 10 over 50. The ordinance introduced lists the new fee at \$900.00. After review by the Planning Department and Maximus, the fee was adjusted to \$85 for every 10 over 50.

Zoning Fees

Ms. Kelleher stated that the Council office has not yet received the recommendations from the Administration.

Review of Business Privilege Tax Ordinance

Mr. Waltman stated that he is seeking the revocation of a business license as a tool to close certain businesses that lose their required licensing. He requested that Mr. Younger review this issue and report back.

Respectfully submitted by Linda A. Kelleher CMC, City Clerk

FOLLOW-UP ISSUES

- Amendment to the Prop. Maintenance Code to allow ticketing system
- Update on the rental housing issue (Codes and Zoning)
- Business Privilege Tax Revocation
- Fee Increase Review (Maximus)
 - Codes
 - Recreation
 - Zoning
- Copy of DEP report on WWTP

RESOLUTION NO. 100-09

BE IT HEREBY RESOLVED by the Reading Historical Architectural Review Board:

“That a Certificate of Appropriateness **NOT** be issued to Domenic Lavigna, applicant for 11-15 South Fifth Street, for a vinyl banner to read “CITY STYLES & PAWN” in red letters on a white background, “WE BUY AND SELL ALMOST EVERYTHING” in white letters on a red background, “WE BUY GOLD” in black letters on a red background that forms the shape of an arrow, and “610-985-0273” in red numbers on a white background, located at the second floor level of the northwest corner of the building as installed, due to the fact that the vinyl banner does not meet the HARB Sign Policy.”

I hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Reading Historical Architectural Review Board at the meeting held on July 21, 2009.

AMY WOLDT JOHNSON
Historic Preservation Specialist

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RESOLUTION NO. 101-09

BE IT HEREBY RESOLVED by the Reading Historical Architectural Review Board:

“That the Board tables their decision regarding the issuance of a Certificate of Appropriateness to Domenic Lavigna, applicant for 11-15 South Fifth Street, for the installation of a 2' x 4' x 32' internally illuminated red and white vinyl awning to read “CITY STYLES & PAWN” in white letters on a red background and “WE BUY AND SELL ALMOST EVERYTHING, 610.466, 4567” in red letters on a white background; installation of one red neon sign to read “WE BUY GOLD” and one red neon sign to read “Open” at the northernmost first floor storefront window; and the installation of one red neon sign to read “COMP RAMOS ORO” to be located at the southernmost first floor storefront window until the business is approved for this location by the Zoning Hearing Board.”

I hereby certify that the foregoing is a true and correct copy of the resolution adopted by the Reading Historical Architectural Review Board at the meeting held on July 21, 2009.

AMY WOLDT JOHNSON
Historic Preservation Specialist

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August 12, 2009

Mr. Domenic Lavigna
16 Moywood Ave.
Sinking Spring, PA 19608

Dear Mr. Lavigna:

As you are aware, on July 21, 2009, the Reading Board of Historical Architectural Review (HARB) reviewed your application for exterior work undertaken at 11-15 South Fifth Street, Reading, Pennsylvania. The HARB found your proposal to be inconsistent with the Secretary of the Interior's Standards for Rehabilitation and the HARB Sign Policy and therefore did **NOT** issue a Certificate of Appropriateness (COA) for this work as stated in the enclosed Resolution No. 100-09. Furthermore, the HARB tabled their decision regarding additional work that was undertaken as stated in the enclosed Resolution No. 101-09.

In accordance with the Historic Preservation Ordinance, Section 4-120, you are hereby notified that City Council shall review the recommendation of the HARB, Resolution No. 100-09, concerning your request for a COA for the above property. Council shall consider your request at a public meeting scheduled for **Monday, August 17, 2009 at 7:15 p.m.** in Council Chambers located in City Hall, 815 Washington Street, Reading, PA. You are hereby advised of your right to attend the meeting to be heard by Council as to the reasons regarding your request for a COA for the proposed work and for the appeal. If you wish to appear before City Council on August 17 or need to make other arrangements, please contact Linda Kelleher, City Clerk, at 610-655-6204.

If you have any questions or comments please feel free to contact my office at 610-655-6414.

Sincerely,

Amy W. Johnson
Historic Preservation Specialist
enc.

Proposed Changes to the Rental Inspections Program by Eric Weiss

Date: February 3, 2009, based on our January 22, 2009 meeting

Presented to City Council February 17, 2009

1. Enter property information into Hanson regarding placarded (tagged unfit) properties during January 2009. This will require follow-up inspections to be carried out over the following month for approximately 75 properties to verify use and occupancy along with enforcement actions as needed. All tagged unfit properties found to be occupied will be prioritized for enforcement until complied or vacated.
2. Create Divisions of responsibilities of staff by program or specialty, similar to divisions among the lines of business of a corporation. This specialization will improve effectiveness while allowing for adjustments to staffing in each division as needed during the year in order to address fluctuations in the workload. By February 1, 2009, deploy inspections staff as follows:
 - a. 6 rental health & safety inspectors
 - b. 4 complaints inspectors
 - c. 2 illegal use inspectors
 - d. 2 "floating" inspectors to respond to temporary workload increases
 - e. 1 inspector handling health inspections
3. By April 1, 2009, to resolve the Housing Permits backlog problem, issue Housing Permits to approximately 1,500 owners who have applied and have had zoning verified. Defer the requirements for BPL and housing inspections on these properties to resolve the backlog and to clear the path for the commencement of the 5 year systematic inspections cycle. These Permits should indicate the conditions of issuance, that is: must be inspected, must comply with BPL requirements, etc.
4. Begin the 5-year, systematic rental inspections cycle by separating the Magisterial Districts into 5 one-year (2009 through 2013) geographic rental inspections areas. The number of rental dwelling units for inspection should be approximately equated each year and care should be taken not to overload challenging Districts into one year. This establishes goals and timetables with achievement expectations for administration, elected officials, staff, property owners and the general public and will transform the current reactive efforts into a proactive, mission-driven systematic process.
5. By June 30, 2009, to resolve the Rental Unit Invoices backlog, make the necessary ordinance amendments to establish a Registration provision for qualified rental units in chapter 11- Housing Rental. Registered Rental Units will be units documented by the City and based on the owner's application and payment of a yearly fee. A unit will remain Registered, providing the yearly fee is paid, until a Rental Permit is issued when the unit is brought into compliance with all requirements in Chapter 11 following

inspection during the five (5) year inspections cycle. The Registration does not warrant the zoning, safety, condition or habitability of these units. It merely documents the owner's application for inclusion of the units(s) in Reading's Rental Unit Permitting process.

In resolving the invoice backlog, the 2008 and 2009 Rental Unit Invoices for units that are in compliance should be sent as Rental Permit Fee invoices. Rental units for which compliance is pending or units that have not been brought into compliance with the Rental Housing Ordinance requirements, should have 2008 and 2009 invoices sent as Rental Registration Fee invoices.

2007 Rental Fee Invoices, already in progress, can remain as Rental Permit Fee Invoices.

This will bring the rental billing cycle current without mandating all units be in compliance with all requirements while allowing Registered Units to remain Registered until they are included in the five (5) year inspection s cycle and achieve their Rental Permit.

6. List all permitted rental units on a Master Rental Permit posted in a common area (lobby) of every rental property. The permit will list all legal units identifying them by number or letter or location (example: 2nd floor rear). This will document the permitted allowable rental units in every rental building at an accessible location open to public view.

Additional Programmatic Changes:

1. By April 1, 2009 institute Sweep Ticketing Program. Sweep Ordinance is being revised to include all anticipated violations to be addressed by the ticketing process. The process initially will be by standard ticket book issuance similar to the Allentown Program. Potential benefits to using hand-held computers for ticketing will be looked into. Consortium of Code Officials in Reading, Allentown, Bethlehem and Easton has been formed and will best practice solutions, including the Sweep Ticketing Program, to common code problems among the cities.
2. By January 2009 decide on, measure staff size requirements, purchase and issue uniforms to inspectors. The inspectors "uniforms" will be khaki pants and a button down shirt rather than either a more law enforcement officer or a more maintenance worker style uniform. Projected first day for uniforms to be worn is the middle of February.
3. Zoning files are the City's official record of a property's legal allowable use. Having clear, complete, official municipal records of every property's allowable use is essential to a City's success by several measures. It is recommended that a sufficient number of staff be assigned to investigate and resolve issues of allowable

uses for properties in rental inspections yearly geographic workload prior to inspections. Consider fee increases for rental housing permits and/or zoning applications to cover additional staff to verify allowable use and to gain compliance of zoning violations. Maximus Company is evaluating Reading's fee structure. We can review the Maximus draft when it is ready.

Additional note:

Look into the optimal use of State Act 97 by putting a procedure in place to have fire inspectors gather fire insurance coverage information at every fire response and transfer this information to a program coordinator who will assure that insurance providers adhere to the provisions of Act 97 by escrowing with the City Treasurer the required portion of the insurance proceeds. Compliance signed off by the Building Inspections staff when the CO is issued following building restoration should be required prior to release of these funds to the owner/insured. If the owner/insured balks or fails to restore the building, the City should proceed to use the escrowed funds for the repairs. If no insurance is in place at the time of the fire, public nuisance abatement procedures using public funds should be employed to repair the building damage to at least a condition that will not allow further deterioration nor negatively impact surrounding properties. Code enforcement action, blighted property review procedures or municipal lien execution should follow until the fire damaged building is restored.

ZONING

Zoning performs inspections to assure compliance with applicable codes and ordinances adopted by the City. Zoning ensures consistent conformance with applicable laws regulating the use of land and buildings in the City. All persons or entities desiring to undertake any new construction, structural or site alteration, razing, grading, or changes in the use of a building or lot shall apply to the Zoning Administrator for a zoning permit by completing the appropriate application form and by paying all required fees.

The following is a summary of the cost and fee analysis.

Summary of Zoning Costs

The cost distribution for the Zoning user fee analysis was comprised of three (3) components: 2008 budget appropriations, 2006 indirect costs, and 2008 divisional support. The 2008 budget appropriations for Zoning were derived directly from the City's adopted budget. The 2006 indirect costs are from the City's 2006-based full cost allocation plan. The divisional support costs from Codes Administration, Planning, and City Clerk was calculated through separate MAXFEE analyses, respectively. In the 2008 budget the Zoning Administrator position was in Codes Administration. In order to accurately distribute the labor costs, the portion of Codes Administration support costs related to salaries and fringe benefits for the Zoning Administrator position was included in the 2008 budget appropriations for Zoning. The actual/estimated quantities (units of service) were derived from Zoning's permit database for the period January 1, 2008 through October 31, 2008. The data was sorted by permit code to arrive at the total number of units for each fee area. The total units for the sample period were then annualized to arrive at a projected total number of units for a calendar year. It should be noted that the total number of rental housing units was computed based on 50% of the three year (2006-2008) average housing stock as reported by the City Auditor's report of the number of real estate transfer transactions. This method of computing total rental housing units was recommended by the City Manager.

CITY OF READING, PENNSYLVANIA Analysis of Fees for Services Report

April 17, 2009 Page 94 **MAXIMUS**

Zoning

Cost Summary

(All Costs Shown in Dollars)

2008 Budget Appropriations

Salary and Wages \$ 136,011

Benefits 45,905

Operating Expenses 24,000

Total Direct Budgeted Costs \$ 205,916

2006 Full Cost Allocation Plan \$ 36,061

Total Indirect Costs \$ 36,061

Divisional Support

Codes Admin. \$ 44,039

Planning and City Clerk 7,467

Total Divisional Support \$ 51,506

Total Zoning Costs \$ 293,483

Of the total cost of \$293,483 for the fee-related services considered, \$134,700 was considered to be non-fee related leaving \$158,783 or 54.10% of the total costs as the fee related costs.

**PART 5
BUSINESS PRIVILEGE TAX**

A. Business Privilege Tax Ordinance

§24-501. Short Title.

This Part shall be known as the "Business Privilege Tax Ordinance."
(*Ord 52-1975, 12/3/1975, §I*)

§24-502. Definitions.

As used in this Part, certain terms are defined as follows except where the context clearly indicates a different meaning:

BUSINESS - any activity carried on or exercised for gain or profit in the City including, but not limited to, the sale of merchandise or other tangible personalty or the performance of services and the rental of personalty and/or realty.

CALENDAR YEAR - the period January 1 to December 31, inclusive.

CITY - the City of Reading.

LICENSE YEAR - the period from January 1 to December 31, inclusive.

PERSON - any individual, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

TAXPAYER - a person subject to the payment of the tax imposed by this Part.

TAX MANAGER - the person duly appointed by Council to administer the tax.

TAX YEAR - the period from January 1 to December 31, inclusive.

TREASURER - the Director of Finance of the City of Reading.

WHOLESALE DEALER or WHOLESALE VENDOR - any person who sells to dealers in or vendors of goods, wares and merchandise and to no other person.
(*Ord 52-1975, 12/3/1975, §II; as amended by Ord. 14-2001, 5/29/2001*)

§24-503. Tax Levied; Rate; Business Volume Computed; Exemptions.

There is hereby levied for the tax year 1976 and annually thereafter a tax for general revenue purposes on the privilege of doing business as herein defined in the City as follows:

A. **Rate and Basis of Tax.** The rate of the tax on each dollar volume of gross annual receipts of every person engaged in occupations or business in the City shall be 1½ mills, 1½ mills shall mean \$1.50 per \$1,000 volume of gross annual receipts, except that the rate of the tax on each dollar volume of gross annual receipts by wholesale dealers or wholesale vendors engaged in business in the City shall be 1 mill. All nonwholesale businesses of such wholesale dealers or wholesale vendors shall be taxed at the general rate of 1½ mills. [Ord. 10-2007]

B. Computation of Volume of Business.

- (1) Every person subject to the payment of the tax hereby imposed who has commenced his business prior to the full calendar year prior to the tax year shall compute his annual estimated gross volume of business upon the actual gross amount of business transacted by him during the immediately preceding calendar year.
- (2) Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business before the beginning of the tax year but after the beginning of the full calendar year prior to the tax year, shall compute his estimated annual gross volume of business for the tax year upon the gross volume of business transacted by him during prior calendar year, taking the monthly average during such period and multiplying the same by 12. In the event that he shall be in business fewer than 90 days in the prior calendar year, he shall be permitted to use sufficient days in calendar year in which the tax year begins to equal 90 successive days after commencement of business, to take a monthly average thereon, and to multiply the average by 12.
- (3) Every person subject to the payment of the tax hereby imposed who has commenced or commences his business subsequent to the beginning of the tax year, if there shall be less than 3 months from the commencement of his business to the end of the tax year, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the tax year; if there shall be more than 3 months from the commencement of his business to the end of the tax year he shall compute his estimated gross volume of business for such tax year upon the gross volume of business transacted by him during the period from the commencement of his business to the end of the tax year, taking the monthly average during the first 3 months of business and multiplying the same by the number of months from the commencement of business to the end of the tax year.
- (4) Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal or itinerant by nature, shall compute his estimated gross amount of business to be transacted by him for the period such person engages in such

temporary, seasonal or itinerant business within the City by a method to be determined by the Tax Manager.

(5) The Tax Manager is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the City in any case where the taxpayer disputes the validity or amount of the City's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the City has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The provisions of this section shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction.

(6) Payments made under the mercantile license tax for business to which this tax is applicable shall be credited to this tax and vice versa.

C. Persons, Business and Receipts Exempted.

(1) **Persons and Businesses.** Persons employed for a wage or salary, nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the government of the United States or of the Commonwealth of Pennsylvania and the business of any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this Part.

(2) No such tax shall be assessed and collected on a privilege, transaction, subject, or occupation which is subject to a State tax or license fee, and which tax or license fee has been held by the Courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege tax by a municipality.

(3) **Utilities.** No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission; or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.

(4) **State Tax on Tangible Property.** No such tax shall be assessed and collected on the privilege of employing such tangible property as is subject to a State tax except on sales of admission to places of amusement or on sales or other transfers of title or possession of property.

(5) **Production and Manufacture.** No such tax shall be assessed and collected on goods, articles and products, or on by-products of manufacture, or on minerals, timber, natural resources and farm products manufactured, produced or grown in the City, or on the preparation or processing thereof for use or market, or on any privilege, act or transaction relating to the business of manufacturing, the production, preparation or processing of

minerals, timber and natural resources or farm products, by manufacturers, producers and farmers with respect to the goods, articles and products of their own manufacture, production or growth or any privilege, act or transaction relating to the business of processing by-products of manufacture or on the transportation, loading, unloading, dumping or storage of such goods, articles, products or by-products.

D. Determination of Gross or Whole Volume Business. Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made, rentals and/or services rendered, subject only to the following allowable deductions and exemptions:

(1) The dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

(2) Refunds, credits or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned.

(3) Any commissions paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.

(4) Bad debts, where the deduction is also taken in the same year for Federal income taxation purposes.

(5) Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania or the City.

E. Partial Exemptions. Where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this Part by reason of the provisions of the Constitution of the United States or any other provision law, the Tax Manager with the approval of Council shall establish rules and regulations and methods of allocation and evaluation so that only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the City shall be taxed hereunder.

F. Rate When Same Tax is Imposed by Two Taxing Bodies. If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act 1965, December 31, P.L. 1257 and its amendments, to the City and one or more political subdivisions of the State, then and in that event the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but, in no event, shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by the Enabling Act permitting the imposition of such taxes.

G. Records. The taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep books and records of his business so as to show clearly, accurately and separately the amount of such sales and services as are excluded from the tax and the amounts of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided.

(Ord 52-1975, 12/3/1975, §III; as amended by Ord. 14-2001, 5//29/2001; and by Ord. 10-2007, 1/22/2007, §1)

§24-504. Returns; Payment; Interest Penalty.

1. Every return shall be made upon a form furnished by the Tax Manager. Every person making a return shall certify the correctness thereof by affidavit.
2. Every person subject to the tax imposed by this Part who commenced his business on or before January 1 of the full calendar year previous to the beginning of any tax year shall on or before February 15 of the tax year file with the Tax Manager a return setting forth his name, his business, business address and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of the tax due.
3. Every person subject to the tax imposed by this Part who has commenced his business before the beginning of the tax year but after January 1 of the full calendar year previous to the beginning of the tax year shall on or before February 15 of the tax year file with the Tax Manager a return setting forth his name, his business, business address and such other information as may be necessary in arriving at the estimated gross amount of business transacted by him as calculated under §24-503(B)(2) and the amount of tax due, provided 100 days have elapsed from the commencement of the business to February 15 of the tax year. If a taxpayer has not been in business for 100 days as of February 15 of the tax year, whether or not he commenced business within the tax year, his return shall be filed within 100 days of the commencement of his business.
4. Every person subject to the payment of the tax imposed by this Part who engages in a business temporary, seasonal or itinerant by its nature shall at the time application is made for the business privilege license file a return with the Tax Manager setting forth his name, his business, his business address and such information as may be necessary in arriving at the estimated gross amount of business to be transacted by him as calculated in accordance with §24-503(B)(4).
5. **Going Out of Business.** Any person going out of or ceasing to do business shall, within 7 days from the date of ceasing to do business, file a return showing the actual gross volume of business conducted and done by such person during the tax year in which such person ceased doing business, and pay the tax due as computed thereon at the rate herein provided

for at the time of filing such return. If such tax has been previously paid based upon estimated gross receipts, the taxpayer shall be entitled to a refund, without interest, of any excess tax paid for the tax year in which business was terminated.

6. Payment of Tax and Penalties for Late Payment. The business privilege tax levied pursuant to this Part shall be due and payable on the date on which the taxpayer is required to file a return as set forth above. If the tax is paid within two months after the due date a discount of 2% shall be allowed. All taxpayers who shall fail to pay the tax for 4 months after the due date, shall be charged a penalty of 10% plus an additional 1% per month or fractional part of a month, commencing with the penalty period, until the tax is paid.

[*Ord. 49-1976*]

7. Receipt. The City Director of Finance shall, upon payment to him of the business privilege tax, give the person paying the same a receipt therefor.

(*Ord. 52-1975, 12/3/1975, §VI; as amended by Ord. 49-1976, 12/22/1976, §§1-4; and by Ord. 14-2001, 5/29/2001*).

§24-505. License.

As of January 1, 2003, any person desiring to conduct or to continue to conduct any business, as herein defined, within the City shall file with the Tax Administration Manager, an application for a business privilege license and shall pay a fee of \$35 for the initial license and \$35 for each renewal thereof. EXCEPT, that any person with whole or gross volume of business transacted within the territorial limits of the City less than \$600 for any given year shall pay a fee of \$15.

(*Ord. 52-1975, 12/3/1975, §V; as amended by Ord. 96-1986, 12/10/1986, §1; by Ord. 26-1997, 11/24/1997, §1; and by Ord. 67-2002, 12/9/2002, §1*)

§24-506. Posting Licenses.

The license issued shall be conspicuously posted in the place of business for which the license is issued, and shall remain in effect for the license year or fraction of year for which such license was issued. In cases where more than one place of business is conducted, a separate license shall be issued for each place of business. Any taxpayer who is in default in payment of tax due hereunder shall be refused a license until such tax is paid in full.

(*Ord. 52-1975, 12/3/1975, §VI*)

§24-507. Penalty.

1. Whoever conducts, transacts or engages in any of the businesses subject to the tax imposed by this Part, without having first secured a business privilege license for the year, or who fails to file a tax return as required by the provisions of this Part or who willfully files a false return, or who fails to maintain such records and books of account as shall enable him to make a true and correct return in accordance with the provisions of this Part, or any person or persons subject to, or supposed to be subject to, the tax imposed by this Part who refuses to allow the Tax Manager or his deputies to examine the books, papers and records of any such person or persons or who fails to comply with any other provisions of this Part shall be, upon conviction thereof, sentenced to pay a fine of not more

than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days.

2. Each day on which such person violated this Part may be considered as a separate offense and punishable as such as aforeprovided.

(*Ord. 52-1975, 12/3/1975, §VII & VIII; as amended by Ord. 53-1984, 6/20/1984, §1; and by Ord. 14-2001, 5/29/2001*)

§24-508. Duties of Tax Manager and City Director of Finance.

1. The City Director of Finance is charged with the duties of collecting and receiving the taxes, fines and penalties imposed by this Part. It shall be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.

2. The Tax Manager and his duly appointed deputies under the direction of the Director of Accounts and Finance are hereby empowered with the approval of Council to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination and correction of returns and payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and charged with enforcing the provisions of this Part and any rules and/or regulations promulgated pursuant hereto.

3. In the event the person to be assessed neglects or refuses to make a return, then in such case the Tax Manager or his duly appointed deputies shall assess such person or persons on such an amount of whole or gross volume of business as the Tax Manager or his deputies deem reasonable and appropriate. In all cases of assessment, the Tax Manager or his duly appointed deputies shall give the parties assessed a notice in which shall be stated the trade, business, occupation or class, and the amount of the business privilege tax imposed or levied.

4. The taxpayer shall maintain such records and books of account as shall enable him to make a true and accurate return in accordance with the provisions of this Part. Such accounts and records shall disclose in detail the gross receipts and other data pertaining to the taxpayer's gross volume of business, and shall be sufficiently complete to enable the Tax Manager or his deputies to verify all transactions. The Tax Manager or his deputies are hereby authorized to examine the books, papers and records of any person or persons subject to or supposed to be subject to the tax imposed by this Part, in order to verify the accuracy of the return made, or if no return was made, ascertain the tax due.

5. Any person aggrieved by any decision of the Tax Manager shall have the right to appeal to the Court of Common Pleas, as in other cases.

(*Ord. 52-1975, 12/3/1975, §IX; as amended by Ord. 14-2001, 5/29/2001*)

§24-509. Confidential nature of Information.

Any information gained by the Tax Manager or any other official, agent or employee of the City, as a result of any returns, investigations, hearings or verifications required or authorized by this Part, shall be confidential, except in accordance with proper judicial order or as otherwise provided by law.

(*Ord. 52-1975, 12/3/1975, §X; as amended by Ord. 14-2001, 5/29/2001*)

§24-510. Suit on Collection; Costs.

1. The Tax Manager or his duly appointed deputies shall have the power in the name of the City to institute proceedings against any and all persons who violate the provisions of this Part.

2. If for any reason the tax is not paid when due and suit is brought for the recovery of any such tax, the person liable therefor, shall, in addition, be liable for the costs of collection and interest and penalties herein imposed.

(Ord. 52-1975, 12/3/1975, §XI; as amended by Ord. 14-2001, 5/29/2001)

§24-511. Savings Clause; Separability.

1. Nothing contained in this Part shall be construed to empower the City to levy and collect the taxes hereby imposed on any person, or any business, or any portion of any business not within the taxing power of the City under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.

2. If the tax, or any portion thereof, imposed upon any person under the provisions of this Part shall be held by any court of competent power or jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania or any other provision of the law, the decisions of the court shall not affect or impair the right to impose the taxes, or the validity of the taxes so imposed upon other persons as herein provided.

3. The provisions of this Part are severable, and if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this Part. It is hereby declared to be the intention of Council that this Part would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

(Ord. 52-1975, 12/3/1975, §XII)