

**AGENDA**  
**REGULAR MEETING OF COUNCIL**  
**April 15, 2019**  
**6:00 PM**

1. ROLL CALL
2. READING OF MINUTES
3. REPORTS & COMMUNICATIONS FROM MAYOR & HEADS OF DEPARTMENTS AND INTERESTED PARTIES AND CITY CLERK'S NOTES
  - 3.A MINUTES OF THE REGULAR MEETING OF THE MEMBERS OF SCRANTON HOUSING AUTHORITY HELD MARCH 4, 2019.  
  
[Scranton Housing Authority Meeting Minutes 3-4-19.pdf](#)
  - 3.B TAX ASSESSOR'S REPORT FOR HEARING DATE TO BE HELD MAY 1, 2019.  
  
[Tax Assessor's Report for 5-01-19.pdf](#)
4. CITIZENS PARTICIPATION
5. INTRODUCTION OF ORDINANCES, RESOLUTIONS, APPOINTMENT AND/OR RE-APPOINTMENTS TO BOARDS & COMMISSIONS MOTIONS & REPORTS OF COMMITTEES
  - 5.A MOTIONS
  - 5.B NO BUSINESS AT THIS TIME.
6. CONSIDERATION OF ORDINANCES - READING BY TITLE

6.A NO BUSINESS AT THIS TIME.

## 7. FINAL READING OF RESOLUTIONS AND ORDINANCES

7.A FOR CONSIDERATION BY THE COMMITTEE ON FINANCE – FOR ADOPTION – FILE OF THE COUNCIL NO. 61, 2019 - AMENDING FILE OF THE COUNCIL NO. 95, 2015, AN ORDINANCE, ENTITLED “AMENDING FILE OF THE COUNCIL NO. 79 OF 2015, AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 145 OF 2007 ENTITLED “AN ORDINANCE RENAMING THE EMERGENCY AND MUNICIPAL SERVICES TAX (“EMST”) TO LOCAL SERVICE TAX (“LST”) AND BY IMPOSING A WITHHOLDING OF \$52.00 FOR THE CALENDAR YEAR 2015 AND THE SAME SHALL REMAIN IN FULL FORCE AND EFFECT ANNUALLY THEREAFTER BY INCREASING THE LOCAL SERVICES TAX WITHHOLDING FROM \$52.00 TO \$156.00 FOR THE CALENDAR YEAR 2015, AND PROVIDING FOR AN EXEMPTION FROM TAXATION FOR ANY PERSON WHOSE TOTAL EARNED INCOME AND NET PROFITS FROM ALL SOURCES WITHIN THE MUNICIPALITY IS LESS THAN \$15,600.00 FOR THE CALENDAR YEAR 2015 UNDER AND PURSUANT TO THE LOCAL TAX ENABLING ACT, ACT 511 OF 1965, P.L. 1257, 53 P.S. §6924,101 ET. SEQ. AND THE MUNICIPALITIES RECOVERY ACT, ACT 47 OF 1987, P.L. 246, 53 P.S. §11701.101 ET. SEQ. AND THEIR RESPECTIVE AMENDMENTS” EFFECTIVE RETROACTIVE TO JANUARY 1, 2019. THIS TAX IS EXPECTED TO GENERATE APPROXIMATELY FOUR-MILLION SIX-HUNDRED FIFTY-THREE-THOUSAND THREE-HUNDRED THIRTY-FIVE (\$4,653,335.00) DOLLARS IN REVENUE IN CALENDAR YEAR 2019 BY ENABLING THE CITY OF SCRANTON TO CONTINUE TO LEVY THE LOCAL SERVICES TAX AT THE FISCAL YEAR 2018 RATE FOR FISCAL YEAR 2019 FOR A TOTAL MAXIMUM LOCAL SERVICES RATE OF ONE HUNDRED FIFTY SIX (\$156.00) DOLLARS FOR THE FISCAL YEAR 2019 EFFECTIVE RETROACTIVE TO JANUARY 1, 2019 AND PROVIDING FOR AN EXEMPTION FROM TAXATION FOR ANY PERSON WHOSE TOTAL EARNED INCOME AND NET PROFITS FROM ALL SOURCES WITHIN THE MUNICIPALITY IS LESS THAN \$15,600.00 FOR THE CALENDAR YEAR 2019.

[FOC 61-2019 Local Service Tax for 2019.pdf](#)

- 7.B FOR CONSIDERATION BY THE COMMITTEE ON COMMUNITY DEVELOPMENT – FOR ADOPTION - FILE OF THE COUNCIL NO. 62, 2019 – AMENDING FILE OF THE COUNCIL NO. 58, 2016 AS AMENDED, AN ORDINANCE “ESTABLISHING A REGISTRATION PROGRAM FOR RESIDENTIAL RENTAL PROPERTIES; REQUIRING ALL OWNERS OF RESIDENTIAL RENTAL PROPERTIES TO DESIGNATE A PROPERTY MANAGER FOR SERVICE OF PROCESS AND PRESCRIBING DUTIES OF OWNERS, PROPERTY MANAGERS AND OCCUPANTS” BY AMENDING SECTION 4 (A)(1) AND (B)(1) AND (2), AND SECTION 10(A) TO ABOLISH THE TIERED RATE STRUCTURE FOR 2019 AND REDUCE THE RENTAL REGISTRATION FEE FOR 2020 AND 2021.

[Ordinance-2019 Amend FOC 58, 2016 Rental Registration.pdf](#)

- 7.C FOR CONSIDERATION BY THE COMMITTEE ON RULES – FOR ADOPTION - RESOLUTION NO. 110, 2019 – APPOINTMENT OF P. JAMES WINTERMANTEL, 3 MOUNTAIN LAKE ROAD, SCRANTON, PENNSYLVANIA, 18505, AS A MEMBER OF THE BOARD OF THE SCRANTON PARKING AUTHORITY EFFECTIVE MARCH 28, 2019. MR. WINTERMANTEL WILL BE REPLACING THOMAS BORTHWICK WHO RESIGNED MARCH 16, 2019. MR. WINTERMANTEL WILL FILL THE UNEXPIRED TERM OF THOMAS BORTHWICK WHOSE TERM IS SCHEDULED TO EXPIRE ON JUNE 1, 2021.

[Resolution-2019 Appt P. James Wintermantel to Parking Authority.pdf](#)

- 7.D FOR CONSIDERATION BY THE COMMITTEE ON RULES – FOR ADOPTION - RESOLUTION NO. 111, 2019 – AUTHORIZING SUPPORT OF RESTORE PENNSYLVANIA, AN INFRASTRUCTURE IMPROVEMENT PLAN WHICH WILL PROVIDE AN ADDITIONAL \$4.5 BILLION TO ASSIST COMMUNITIES ACROSS PENNSYLVANIA COMBAT BLIGHT; DEVELOP STORMWATER MANAGEMENT AND FLOOD PLANS; PROVIDE HIGH-SPEED INTERNET ACCESS; AND INVEST IN

TRANSPORTATION INFRASTRUCTURE PROJECTS; WHICH WILL BE  
ADVANTAGEOUS TO THE CITY OF SCRANTON IN DEALING WITH THESE  
ISSUES.

[Resolution-2019 Restore Pennsylvania.pdf](#)

## 8. ADJOURNMENT

**MINUTES OF THE REGULAR  
MEETING OF THE MEMBERS OF  
SCRANTON HOUSING AUTHORITY  
MARCH 4, 2019**

The members of the Scranton Housing Authority met in a regular session at the office of the Authority in the City of Scranton, Pennsylvania, at 5:00 P.M. on March 4, 2019.

Pledge of Allegiance.

Mrs. Mary Anne Sinclair, Madame Chairman, called the meeting to order. Roll call please.

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1. Roll Call.

Present

Absent

**OFFICE OF CITY  
COUNCIL/CITY CLERK**

Mary Anne Sinclair  
Thomas J. Galella, Jr.  
Mary Clare Kingsley  
Devendabhai Dave

Terrence V. Gallagher

In addition to the board members, those in attendance were Gary P. Pelucacci, Executive Director, Karl P. Lynott, Deputy Executive Director; and Boyd Hughes, Solicitor.

2. Executive Session.

Mrs. Sinclair: Executive Session.

Attorney Hughes: Yes, Madame Chairman, at the Executive Session we discussed litigation and personnel.

Mrs. Sinclair: Thank you.

3. Approval of the minutes of the Regular Meeting held February 4, 2019.

Mrs. Sinclair: Approval of the minutes of the regular meeting held February 4, 2019.

Ms. Kingsley: So moved.

Mr. Dave: Second.

Upon roll call, the ayes and nays were as follows:

AYES	NAYS
Mary Anne Sinclair	None
Thomas J. Galella, Jr.	
Mary Clare Kingsley	
Devendabhai Dave	

4. Treasurer's Report for the period January 31, 2019 to February 27, 2019.

Mrs. Sinclair: Treasurer's Report for the period January 31, 2019 to February 27, 2019.

Mr. Galella: This report is as of February 27, 2019. The balances in our checking accounts and Money Market accounts are \$4,122,572.63. The Section 8 NRA Fund has a balance of \$1,554.96. This savings account is required by HUD to deposit excess HAP funds not used by the Authority. The payroll account will now be listed as the bank is requiring the account to have on deposit the amount of the direct deposit funds two days prior to the disbursement of the funds. Thus, the SHA will keep at minimum at least \$75,000 on deposit in the payroll account. Investments made in Certificates of Deposits amounted to \$4,651,730.32. Petty Cash totaled \$300.00, for a grand total of \$8,776,157.91. Paid bills from January 31, 2019 to February 27, 2019 were forwarded to all board members. If there are no questions, a motion should be made for approval of this report.

Mr. Dave: So moved.

Ms. Kingsley: Second.

Upon roll call, the ayes and nays were as follows.

AYES

NAYS

Mary Anne Sinclair  
Thomas J. Galella, Jr.  
Mary Clare Kingsley  
Devendabhai Dave

None

5. Secretary's Report.

Mrs. Sinclair: Secretary's Report.

Mr. Pelucacci: There are no communications to report at this time, Madame Chairman.

6. Committee Reports.

6.(a) Chairman Report.

Mrs. Sinclair: Committee Reports, I have nothing to report at this time. Executive Director's Report.

6. (b) Executive Director Report.

Mr. Pelucacci: Yes, Madame Chairman. Under our Utility Report for the month of January, 2019 our total utility cost was \$193,829.99 and for the month of February, 2019 our total utility cost was \$184,808.58.

On our Tenant's Accounts Receivable Report, for the month of December, 2018 we had a total of 399 delinquents totaling \$215,220.79; for the month of January, 2019 we had 322 delinquents totaling \$197,109.94 and for the month of February, 2019 we had 317 delinquents totaling \$210,607.53.

On our Construction Report Madame Chairman, work is progressing on the comprehensive renovation of buildings 15 and 17 and the new gas distribution system at Valley View Terrace.

Work is almost complete on the implementation of our Energy Conservation measures through our Energy Performance Contract.

That is all I have, Madame Chairman.

Mrs. Sinclair: Thank you. Attorney Hughes, do you have anything under Solicitor's Report?

6.(c) Solicitor Report.

Attorney Hughes: Yes, Madame Chairman, both are bid legal opinions I forwarded for Items 8.(a) and 8.(b).

Mrs. Sinclair: Thank you. Apartment Report.

6.(d) Apartments.

Mr. Pelucacci: Yes, Madame Chairman. Under our Public Housing Program, we have an A.C.C. of 1,244 units with 1,161 units under effective lease. There are Eighty-Three (83) vacant apartments in which Seventeen (17) vacant units are under modernization at Valley View Terrace. Under our Section 8 Housing Choice Voucher Program, we have an A.C.C. of 1050 units with 834 units under effective lease. Total apartments under effective lease by the Scranton Housing Authority as of February 28, 2019, are 1,995 out of an A.C.C. of 2,294.

That concludes the Apartment Report, Madame Chairman.

Mrs. Sinclair: Any unfinished business?

7. Unfinished Business.

Mr. Pelucacci: Not to my knowledge, Madame Chairman.

Mrs. Sinclair: New Business.

8. New Business.

8.(a) Bid Opening – February 21, 2019 – Plumbing Supplies for all Developments.



Mr. Pelucacci: Yes, Madame Chairman. We had a bid opening on February 21, 2019 at 10:00 a.m. for Plumbing Materials for all Developments. We received one bid for the Plumbing Materials. The bid was from Chapman Supply, Inc. for \$7,713.58 dollars. The bid was reviewed by Authority staff and our Solicitor.

It would be my recommendation to make the award to the lowest bidder Chapman Supply, Inc. for \$7,713.58.

Ms. Kingsley: So moved.

Mr. Galella: Second.

Upon roll call, the ayes and nays were as follows.

AYES

NAYS

Mary Anne Sinclair  
Thomas J. Galella, Jr.  
Mary Clare Kingsley  
Devendabhai Dave

None

8.(b) Bid Opening – February 21, 2019 - Electrical Materials for all Developments.

Mr. Pelucacci: Madame Chairman, Item 8.(b) is a bid opening on February 21, 2019 at 11:00 a.m. for electrical Supplies for all developments. We received one bid for the Electrical Supplies. The bid was from Friedman Electric for \$6,872.61. This was reviewed by Authority Staff and our Solicitor.

It would be my recommendation to make the award to Friedman Electric for \$6,872.61.

Mr. Dave: So moved.

Mr. Galella: Second.

Upon roll call, the ayes and nays were as follows.

## AYES

## NAYS

Mary Anne Sinclair  
 Thomas J. Galella, Jr.  
 Mary Clare Kingsley  
 Devendabhai Dave

None

8.(c) Resolution No. 19-6 – Approval for Disposal of Excess Equipment.

Mr. Pelucacci: Madame Chairman, Item 8.(c) is Resolution No. 19-6 which is for the Approval to Dispose of Excess Equipment.

“Whereas, the Scranton Housing Authority on June 5, 2000 adopted an Amended Disposition Policy; and

Whereas, in accordance with said Disposition Policy equipment and/or personal property that is worn out, obsolete or surplus to the needs of the Housing Authority excess to be disposed of, must be written off and disposed of in an efficient manner; and

Now, Therefore, Be It Resolved that the Board of Commissioners of the Scranton Housing Authority hereby approved the attached list, designated as Exhibit “A” of worn out excess equipment from the referenced developments be written off and disposed of in an efficient manner.”

It would be my recommendation that the Board of Commissioners pass Resolution No. 19-6.

Ms. Kingsley: So moved.

Mr. Dave: Second

Upon roll call, the ayes and nays were as follows.

## AYES

## NAYS

Mary Anne Sinclair  
 Thomas J. Galella, Jr.  
 Mary Clare Kingsley  
 Devendabhai Dave

None

8.(d) Resolution No. 19-7 – Authorizing the Plan Administrator to designate Ralph Colo, Financial Advisor for Morgan Stanley as the Broker of Record/Financial Advisor for the Scranton Housing Authority's Section 401(A) and Section 457 Retirement Plans.

Mr. Pelucacci: Yes Madame Chairman, Resolution No. 19-7 is authorizing the Scranton Housing Authority to transfer the designation of Broker of Record/Financial Advisor for the Scranton Housing Authority's employees' Section 401 (A) and 457 retirement Plans from Roland Greco, ARPC to Ralph Colo, Financial Advisor for Morgan Stanley. The change will result in a \$10,000.00 dollar savings of Administrative Fees. These savings will stay within the two retirement plans. It should be noted that the two employees' retirement plans will continue to be administered by John Hancock.

It would be my recommendation that the Board of Commissioners pass Resolution No. 19-7.

Mr. Galella: So moved.

Mr. Dave: Second.

Upon roll call the ayes and nays were as follows.

## AYES

## NAYS

Mary Anne Sinclair  
 Thomas J. Galella, Jr.  
 Mary Clare Kingsley  
 Devendabhai Dave

None

9. Personnel.

Mr. Pelucacci: Yes, Madam Chairman, under personnel, we have no resignations or retirements.

There is currently no one on workers compensation. Paul Morgan is currently on long term disability.

Also, under Personnel Madame Chairman, Dorothy Douaihy completed her 60 day probationary period as Housing Inspector.

It would be my recommendation that the Board of Commissioners make a motion to place Dorothy Douaihy on permanent status as Housing Inspector, effective December 12, 2018.

Ms. Kingsley: So moved.

Mr. Dave: Second.

Upon roll call, the ayes and nays were as follows.

AYES

Mary Anne Sinclair  
Thomas J. Galella, Jr.  
Mary Clare Kingsley  
Devendabhai Dave

NAYS

None

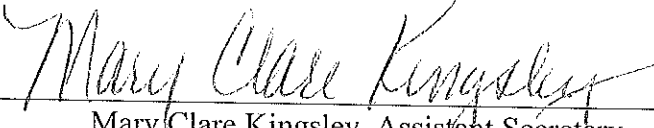
That concludes the Personnel Report Madame Chairman.

10. Public Comment.

(No one present for Public Comment.)

11. Adjournment.

There being no further business to come before the board, the meeting was adjourned at the call of the Chair on motion made by Mr. Galella, and seconded by Mr. Dave.

  
\_\_\_\_\_  
Mary Clare Kingsley, Assistant Secretary

## *Certificate*

I, Mary Clare Kingsley, hereby certify that:

1. I am the duly appointed, qualified and Assistant Secretary of the Scranton Housing Authority.

2. I am custodian of the records of said Authority.

3. The attached copy of the Minutes of the Regular Meeting of said Authority held March 4, 2019 is a true and correct copy of the original Minutes of said meeting, as approved at the meeting of said Authority on April 1, 2019 and is recorded in the Minutes of the Authority.

In Witness Whereof, I have hereunto set my hand and the corporate seal of this Authority this 1st DAY of APRIL, 2019.

  
\_\_\_\_\_  
Mary Clare Kingsley  
Assistant Secretary

**TAX ASSESSOR'S REPORT**

Hearing Date: 05/01/19

Time	Name	Boro/Twp.	Pin Number	Attorney	Proposed/Current Assessed Value	After Appeal Value
10:00 AM	WASSEL WILLIAM M & SHELLEY	SCRANTON	12316020012		12000	
10:10 AM	HAILSTONE ERIN	SCRANTON	15706020006		15500	
10:20 AM	ST STANISLAUS CHURCH	SCRANTON CITY	16707050014		1200	
10:20 AM	ST STANISLAUS POLISH NATL	SCRANTON CITY	15619050011		4550	
10:20 AM	ST STANISLAUS CATHEDRAL P N C	SCRANTON CITY	15619050009		3348	
10:20 AM	ST STANISLAUS POLISH NATIONAL	SCRANTON CITY	15619050010		2800	
10:20 AM	ST STANISLAUS POLISH NATL CH	SCRANTON CITY	15619050004		650	
10:30 AM	SAITA CARMINE G & LINDA L	SCRANTON	14605020054		2900	
10:40 AM	BARRETO MILAGROS	SCRANTON	15616050034		22000	
10:50 AM	CHLUDZINSKI PETER J & MARY B	ROARING BROOK TWP	1800403005301		7800	
11:00 AM	MELVILLE MICHAEL J	ROARING BROOK TWP	1700101000125		93400	
11:10 AM	LITTS BRIAN J & JAIME M	ROARING BROOK	1700101001139		75750	
11:20 AM	HOROWITZ SAUL & GITTY	SCOTT TWP	06215010027	MARK RUDALAVAGE	80500	
11:30 AM	FERRANTE VICTOR & V & D	CLIFTON TWP	23301020012		30000	
11:40 AM	SABIA JOHN & DELORES	SOUTH ABINGTON TWP	08104020003		28500	
11:50 AM	BABUSHKO CARL J SR & JOANN	SOUTH ABINGTON TWP	0910401002304		34625	
12:00 PM	BAGDON MARK	RANSOM	1520405000604		20000	
12:10 PM	GILLETTE JEFFREY M & CATHERINE	GLENBURN TWP	0800103003202	JEFFREY LEVINE	95800	
12:20 PM	POWELL KENNETH & LINDA	ARCHBALD	09402010001		379500	
12:30 PM	MALSON DAVID EDWARD	ARCHBALD	09514040018		8000	
12:40 PM	CARROLL FRANK F III&RUTH ANN	ARCHBALD	09419020014		22500	
12:50 PM	KUHARCHIK COLLEEN PATRICIA	MOOSIC	1850102001122		41500	
1:00 PM	ZBACH SHAWN G & LARISA	DICKSON CITY	11405050001		20000	
1:10 PM	DWMP ASSOCIATES LLC	GREENFIELD TWP	00404010018	PATRICK LAVELLE	109500	
1:20 PM	DEROBERTIS THOMASINE	OLD FORGE	17609020031		17500	
1:30 PM	DEROBERTIS LOUIS & TINA L	SCRANTON	16810020048		20000	
1:40 PM	GIOMBETTI PETER & JOAN	JEFFERSON TWP	13802040009		41000	
1:50 PM	MATECHAK CARL & PHYLISS	SCOTT TWP	0410201001308		15500	
TOTAL RECORDS					28	

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OFFICE OF CITY  
COUNCIL/CITY CLERK

FILE OF THE COUNCIL NO. \_\_\_\_\_

2019

AN ORDINANCE

AMENDING FILE OF THE COUNCIL NO. 95, 2015, AN ORDINANCE, ENTITLED "AMENDING FILE OF THE COUNCIL NO. 79, OF 2015, AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 145 OF 2007 ENTITLED "AN ORDINANCE RENAMING THE EMERGENCY AND MUNICIPAL SERVICES TAX ("EMST") TO LOCAL SERVICE TAX ("LST")" AND BY IMPOSING A WITHHOLDING OF \$52.00 FOR THE CALENDAR YEAR 2015 AND THE SAME SHALL REMAIN IN FULL FORCE AND EFFECT ANNUALLY THEREAFTER BY INCREASING THE LOCAL SERVICES TAX WITHHOLDING FROM \$52.00 TO \$156.00 FOR THE CALENDAR YEAR 2015, AND PROVIDING FOR AN EXEMPTION FROM TAXATION FOR ANY PERSON WHOSE TOTAL EARNED INCOME AND NET PROFITS FROM ALL SOURCES WITHIN THE MUNICIPALITY IS LESS THAN \$15,600.00 FOR THE CALENDAR YEAR 2015 UNDER AND PURSUANT TO THE LOCAL TAX ENABLING ACT, ACT 511 OF 1965, P.L. 1257, 53 P.S. §6924.101 ET. SEQ., AND THE MUNICIPALITIES RECOVERY ACT, ACT 47 OF 1987, P.L. 246, 53 P.S. § 11701.101 ET. SEQ. AND THEIR RESPECTIVE AMENDMENTS" EFFECTIVE RETROACTIVE TO JANUARY 1, 2019. THIS TAX IS EXPECTED TO GENERATE APPROXIMATELY FOUR-MILLION SIX-HUNDRED FIFTY-THREE-THOUSAND THREE-HUNDRED THIRTY-FIVE (\$4,653,335.00) DOLLARS IN REVENUE IN CALENDAR YEAR 2019 BY ENABLING THE CITY OF SCRANTON TO CONTINUE TO LEVY THE LOCAL SERVICES TAX AT THE FISCAL YEAR 2018 RATE FOR FISCAL YEAR 2019 FOR A TOTAL MAXIMUM LOCAL SERVICES RATE OF ONE HUNDRED FIFTY-SIX (\$156.00) DOLLARS FOR THE FISCAL YEAR 2019 EFFECTIVE RETROACTIVE TO JANUARY 1, 2019 AND PROVIDING FOR AN EXEMPTION FROM TAXATION FOR ANY PERSON WHOSE TOTAL EARNED INCOME AND NET PROFITS FROM ALL SOURCES WITHIN THE MUNICIPALITY IS LESS THAN \$15,600.00 FOR THE CALENDAR YEAR 2019.

WHEREAS, the Local Tax Enabling Act (hereinafter "LTEA"), specifically 53 P.S. § 6924.311 (8), limits a municipality to levying a \$52.00 Local Services Tax on individuals who are employed within its limits; and

WHEREAS, the Municipalities Financial Recovery Act (hereinafter "MFRA"), 53 P.S. § 11701.123 (c)(1) and (d)(1), allows a Municipality that has adopted a Plan under 53 P.S. § 11701.241, et.seq. to petition the Court of Common Pleas of proper jurisdiction to increase its Local Services Tax beyond the maximum amount allowed by the LTEA up to a new maximum rate of \$156.00 on individuals who are employed within its limits; and

WHEREAS, the City of Scranton approved and adopted the Act 47 Exit Plan under 53 P.S. § 11701.245 on July 28, 2017, via File of the Council No. 111, 2017, which specifically recommended an increase in the Local Services Tax to the new maximum rate allowed by law of \$156.00 for fiscal year 2015 and going forward; and



**WHEREAS**, based on the foregoing, the City of Scranton Petitioned and received Court approval to increase the Local Services Tax from \$52.00 per year to \$156.00 per year in and for fiscal year 2015; and

**WHEREAS**, File of the Council No. 95, 2015, which amended File of the Council No. 79, 2015, which amended File of the Council No. 145 of 2007, passed final reading by City Council on May 7, 2015 and was signed into law on May 8, 2015 imposing a withholding of \$156.00 for the fiscal year 2015 and exempting any person from the local services tax whose total earned income and net profits from all sources within the municipality is less than \$15,600.00 for the calendar year in which the local services tax is levied.

**WHEREAS**, MFRA requires Municipalities seeking to continue utilizing an increased Local Services Tax to Petition the Court annually for authorization of the same; and

**WHEREAS**, the City of Scranton Petitioned the Court of Common Pleas of Lackawanna County for approval to continue levying the Local Services Tax at the Fiscal Year 2018 rate for Fiscal Year 2019 for a total maximum Local Services Tax rate of One Hundred Fifty-Six (\$156.00) dollars for Fiscal Year 2019; and

**WHEREAS**, the Court of Common Pleas of Lackawanna County granted the City's Petition to continue levying the Local Services Tax at the Fiscal Year 2018 rate for Fiscal Year 2019 for a total maximum Local Services Tax rate of One Hundred Fifty-Six (\$156.00) dollars for Fiscal Year 2019 and exempting any person from the local services tax whose total earned income and net profits from all sources within the municipality is less than \$15,600.00 for Calendar Year 2019 pursuant to the Court's Order, a copy of which is attached hereto as Exhibit "A".

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SCRANTON**, that Section 1 of File of the Council No. 95 of 2015 shall be amended to read as follows:

**SECTION 1.**

**§ 231-9. Levy of tax**

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2019; upon the privilege of engaging in an occupation with a primary place of employment within the City of Scranton during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$156.00, assessed on a pro rata basis, in accordance with the provisions of this article.

This tax may be used solely for the following purposes as the same may be allocated by the City of Scranton from time to time: (1) emergency services, which shall include emergency medical services, police services and/or fire services; (2) road construction and/or maintenance; (3) reduction of property taxes; or (4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subch. F (relating to homestead property exclusion). The political subdivision shall use no less than twenty-five percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$156.00 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

**SECTION 2.** Section 6 of File of the Council No.95 of 2015, is hereby amended as follows:

The tax imposed herein is effective for fiscal year 2019.

**SECTION 3.** In all other respects, File of the Council No. 95 of 2015 shall remain in full force and effect.

**SECTION 4.** This Ordinance is enacted under and pursuant to the Municipalities Financial Recovery Act, 53 P.S. § 11701.123 (c)(1) and (d)(1).

**SECTION 5.** If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this ordinance or any portion thereof from time to time as it shall deem advisable in the best interests of the promotion of the purposes and intent of this ordinance, and the effective administration thereof.

**SECTION 6.** This Ordinance shall be effective retroactive to January 1, 2019.

**SECTION 7.** This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of the Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Optional Plans Law", and any other applicable law arising under the laws of the State of Pennsylvania.

noted 3-13-19  
IN RE: CITY OF SCRANTON : IN THE COURT OF COMMON PLEAS  
REQUEST TO INCREASE LOCAL : OF LACKAWANNA COUNTY  
SERVICES TAX FOR FISCAL YEAR  
2019


2019 MAR 13 P 2:36  
CLERK OF JUDICIAL  
RECORDS CIVIL DIVISION

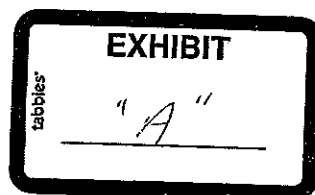
2019 CV 899

AND NOW, this 7th day of March 2019, upon consideration of: 1) Petitioner City of Scranton's Petition for Approval to Continue Levying the Local Services Tax at the Fiscal Year 2018 Rate for Fiscal Year 2019; 2) the lack of any objections raised by any respondents either in writing or made orally at the March 6, 2019 hearing; 3) the record established at the March 6, 2019 hearing, and 4) the arguments by counsel for Petitioners; it is **HEREBY ORDERED** as follows:

- 1) The City of Scranton's Petition for Approval to Continue Levying the Local Services Tax at the Fiscal Year 2018 Rate for Fiscal Year 2019 is **GRANTED**.
- 2) Petitioner City of Scranton is **HEREBY AUTHORIZED** to enact an Ordinance increasing the Local Services Tax to One Hundred and Fifty-Six (\$156.00) dollars for fiscal year 2019. The tax will be effective retroactively to January 1, 2019.
- 3) The Ordinance shall "exempt any person from the local services tax whose total earned income and net profits from all sources within the municipality is less than \$15,600.00 for the calendar year in which the local services tax is levied." 53 P.S. §11701.123(d)(1).

BY THE COURT:

  
Hon. Thomas J. Munley





DEPARTMENT OF LAW

PENNSYLVANIA

CITY HALL • 340 NORTH WASHINGTON AVENUE • SCRANTON, PENNSYLVANIA 18503 • PHONE: 570-348-4105 • FAX: 570-348-4263

March 25, 2019

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MAR 25 2019

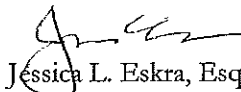
OFFICE OF CITY  
COUNCIL/CITY CLERK

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

Dear Honorable Council Members:

ATTACHED IS AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 95, 2015, AN ORDINANCE, ENTITLED "AMENDING FILE OF THE COUNCIL NO. 79, OF 2015, AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 145 OF 2007 ENTITLED "AN ORDINANCE RENAMING THE EMERGENCY AND MUNICIPAL SERVICES TAX ("EMST") TO LOCAL SERVICE TAX ("LST")" AND BY IMPOSING A WITHHOLDING OF \$52.00 FOR THE CALENDAR YEAR 2015 AND THE SAME SHALL REMAIN IN FULL FORCE AND EFFECT ANNUALLY THEREAFTER BY INCREASING THE LOCAL SERVICES TAX WITHHOLDING FROM \$52.00 TO \$156.00 FOR THE CALENDAR YEAR 2015, AND PROVIDING FOR AN EXEMPTION FROM TAXATION FOR ANY PERSON WHOSE TOTAL EARNED INCOME AND NET PROFITS FROM ALL SOURCES WITHIN THE MUNICIPALITY IS LESS THAN \$15,600.00 FOR THE CALENDAR YEAR 2015 UNDER AND PURSUANT TO THE LOCAL TAX ENABLING ACT, ACT 511 OF 1965, P.L. 1257, 53 P.S. §6924.101 ET. SEQ., AND THE MUNICIPALITIES RECOVERY ACT, ACT 47 OF 1987, P.L. 246, 53 P.S. § 11701.101 ET. SEQ. AND THEIR RESPECTIVE AMENDMENTS" EFFECTIVE RETROACTIVE TO JANUARY 1, 2019. THIS TAX IS EXPECTED TO GENERATE APPROXIMATELY FOUR-MILLION SIX-HUNDRED FIFTY-THREE-THOUSAND THREE-HUNDRED THIRTY-FIVE (\$4,653,335.00) DOLLARS IN REVENUE IN CALENDAR YEAR 2019 BY ENABLING THE CITY OF SCRANTON TO CONTINUE TO LEVY THE LOCAL SERVICES TAX AT THE FISCAL YEAR 2018 RATE FOR FISCAL YEAR 2019 FOR A TOTAL MAXIMUM LOCAL SERVICES RATE OF ONE HUNDRED FIFTY-SIX (\$156.00) DOLLARS FOR THE FISCAL YEAR 2019 EFFECTIVE RETROACTIVE TO JANUARY 1, 2019 AND PROVIDING FOR AN EXEMPTION FROM TAXATION FOR ANY PERSON WHOSE TOTAL EARNED INCOME AND NET PROFITS FROM ALL SOURCES WITHIN THE MUNICIPALITY IS LESS THAN \$15,600.00 FOR THE CALENDAR YEAR 2019.

Respectfully,

  
Jessica L. Eskra, Esquire  
City Solicitor

JLE/sl

FILE OF THE COUNCIL NO. \_\_\_\_\_

2019

AN ORDINANCE

AMENDING FILE OF THE COUNCIL NO. 58, 2016 AS AMENDED, AN ORDINANCE "ESTABLISHING A REGISTRATION PROGRAM FOR RESIDENTIAL RENTAL PROPERTIES; REQUIRING ALL OWNERS OF RESIDENTIAL RENTAL PROPERTIES TO DESIGNATE A PROPERTY MANAGER FOR SERVICE OF PROCESS AND PRESCRIBING DUTIES OF OWNERS, PROPERTY MANAGERS AND OCCUPANTS" BY AMENDING SECTION 4 (A)(1) AND (B)(1) AND (2), AND SECTION 10(A) TO ABOLISH THE TIERED RATE STRUCTURE FOR 2019 AND REDUCE THE RENTAL REGISTRATION FEE FOR 2020 AND 2021.

WHEREAS, an Agreement was approved by the Court in the matter of Adam Guiffrida, *et al.* v. City of Scranton No. 3499 of 2015, Court of Common Pleas of Lackawanna County, a copy of said Memorandum and Order is attached hereto marked as Exhibit "A".

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SCRANTON that Sections 4(A)(1), (B)(1) and (2), and 10(A) of File of the Council No. 58, 2016 as Amended, be further Amended to read as follows:

**Section 4 - Owner/landlord's duties.**

**A. Registration**

Every owner/landlord of a residential rental unit must register the unit with the Code Enforcement Officer in accordance with the following schedule:

**(1)**

All owners/landlords of residential units must register the units with the Municipality of Scranton by November 1 of each license year.

**B. License requirement.**

**(1)**

As a prerequisite to a Tenant occupying a Residential Rental Unit (except as provided in Subsection B(3) below, the owner/landlord of every such Residential Rental Unit shall be required to apply for and obtain a Residential Rental Unit License from the City of Scranton Licensing, Inspections and Permits Department. No residential rental contract for property within the Municipality of Scranton shall be legal without the prior registration of the unit and the issuance of a license for said unit. The cost of a license shall be as follows:

- In calendar year 2019 - \$50 payable on or before November 1, 2019
- In calendar year 2020 - \$45.00 payable on or before November 1, 2020
- In calendar year 2021 - \$45 payable on or before November 2021

**Section 10 - Rental Escrow Program.**

In addition to all other penalty and enforcement remedies established by this chapter or by any other Scranton ordinance, including, but not limited to, the Property Maintenance Code, [1] owners/landlords of residential rental units within the Municipality of Scranton shall be subject to the Municipality of Scranton Rental Escrow Program, which is hereby established by this chapter.

A.

Owners/landlords of residential rental units that have not been registered by November 1 of the license year pursuant to this chapter shall be sent written notice of noncompliance by registered or certified mail, addressed to the record address of such property on the tax records of the County of Lackawanna. Failure to receive said notice shall not affect the effectiveness of the transmittal of said notice.

**SECTION 1.** In all other respects, File of the Council No. 58, 2016, as Amended, shall remain in full force and effect.

**SECTION 2.** If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

**SECTION 3.** This Ordinance shall become effective immediately upon approval.

**SECTION 4.** This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Optional Plans Law" and any other applicable law arising under the laws of the State of Pennsylvania.

ADAM GUIFFRIDA, DINAMICO  
CORPORATION, 1218 VINE LLC,  
448 TAYLOR LLC, 619 PRESCOTT LLC,  
718 PRESCOTT LLC, 805 QUINCY LLC,  
926 MADISON LLC, 945 QUINCY LLC  
PALAZZETTO LLC, 932 CAPOUSE LLC,  
612 CAPOUSE LLC, and 609 GIBSON LLC,

Plaintiffs

vs.

CITY OF SCRANTON,

Defendant

IN THE COURT OF COMMON PLEAS  
OF LACKAWANNA COUNTY

CLASS ACTION

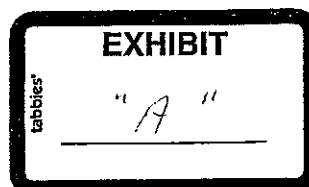
NO. 15 CV 3499

MAURIE B. KELLY  
LACKAWANNA COUNTY  
CLERK OF JUDICIAL  
RECORDS & CIVIL DIVISION  
MAR 17 14:06

### MEMORANDUM AND ORDER

NEALON, J.

Residential rental property owners commenced this class action against the City of Scranton, and asserted that its increased rental registration fees constituted unlawful revenue-raising measures since those fees were not commensurate with the costs associated with administering the rental registration program. Although plaintiffs initially sought declaratory judgment and injunctive relief, as well as the recovery of compensatory damages for "the excess revenue" collected from those fees, only their claims for declaratory judgment and injunctive relief were certified for a class proceeding, since any claims for refunds may only be pursued individually rather than through a class action. Following the completion of discovery, the parties submitted a joint motion for



approval of their class action settlement which authorizes refunds of \$75.00 per property for the applicable years, establishes a legislative remedy that reduces the rental registration fees, and pays the counsel fees and costs incurred by the class plaintiffs in this matter.

Based upon the parties' submissions and the evidence and argument that they presented during the settlement hearing, and in light of the lack of any objection to the proposed settlement by any of the 544 class members, the settlement will be approved as fair, reasonable, and adequate under Pa.R.C.P. 1714(a). Additionally, the requested counsel fees and expenses incurred by the class plaintiffs' counsel, which will be paid in full by the City, will likewise be approved in accordance with Pa.R.C.P. 1717. Accordingly, the parties' joint motion for approval of the class action settlement will be granted.

#### **I. FACTUAL BACKGROUND**

The owners of multiple residential rental properties in the City of Scranton filed this class action lawsuit challenging the municipal registration program for residential rental properties and corresponding registration and permit fees as "illegal revenue-raising measures," and argued that the fees formerly collected by the City were not "reasonably commensurate" with the City's cost of administering the rental registration and inspection program. (Docket Entry No. 1). On March 1, 2016, the City's motion to dismiss the plaintiffs' motion for certification of a class was denied with respect to the claims for declaratory judgment and injunctive relief, and by Order dated March 2, 2016, the plaintiffs' motion for certification of a class action was granted on an "opt-in" basis.



(Docket Entry Nos. 33-34). Further court intervention was required in order to resolve and finalize the written notice to be forwarded to putative class members pursuant to Pa.R.C.P. 1712. (Docket Entry No. 36).

From March 9, 2017, to May 23, 2017, 279 property owners opted in as plaintiffs in this class action suit by filing written elections with the Clerk of Judicial Records, and an additional 265 property owners opted-in by delivering their elections to class counsel. (Docket Entry Nos. 37-320). On August 18, 2017, plaintiffs' motion for leave to amend the class action complaint was granted so as to include claims for declaratory judgment and injunctive relief with respect to subsequent City legislation that was enacted in 2016. (Docket Entry No. 326). Plaintiffs filed such an amended complaint and the City thereafter filed an answer to that amended pleading. (Docket Entry Nos. 327-328).

At the request of counsel, an Order was issued scheduling a status conference for June 13, 2018, "in order to establish deadlines for the completion of discovery, the production of expert witness reports, the filing of case-dispositive motions, and other pre-trial matters." (Docket Entry No. 334). On June 14, 2018, a scheduling Order was issued directing the parties to complete discovery by October 12, 2018, to produce their expert witness reports by December 12, 2018, and February 12, 2019, to file case-dispositive motions by April 12, 2019, to attend a final pre-trial conference on June 10, 2019, and to proceed to trial on July 8, 2019. (Docket Entry No. 335). By Order dated January 4, 2019, a settlement conference was scheduled for January 23, 2019. (Docket Entry No. 339).

At the conclusion of that settlement conference, counsel for the parties reached a settlement of this class action pursuant to which the City of Scranton has agreed to: (1)

pay those property owners, who have opted-in to the designated class and paid rental registration fees in 2014 and 2015 in compliance with File of the Council No. 7 of 2014, a refund of \$75.00 per property for each of those years; (2) submit legislation to the City Council of Scranton to establish a rental registration fee of \$45.00 per unit commencing in 2020 and continuing in 2021; and (3) pay a stipulated sum to Batyko Law LLC for counsel fees and costs incurred in representing the class members in this litigation. (Docket Entry No. 340). In accordance with Pa.R.C.P. 1714(a), a hearing was scheduled for March 11, 2019, at 9:00 AM, at which time the parties would submit their proposed settlement for court approval. (Id. at ¶ 1). Counsel for the parties were directed to furnish notice of the proposed settlement and scheduled hearing to all members of the certified class by hand-delivery, ordinary mail, facsimile transmission, or electronic mail in compliance with Pa.R.C.P. 236(a)(2) and (d) and Pa.R.C.P. 440(a)(1). (Id. at ¶ 2). Specifically, Batyko Law LLC was ordered to serve the foregoing notice upon “those 265 property owners who opted-in to the class by delivering a timely written election to Batyko Law LLC,” whereas the City of Scranton was instructed to provide the required notice “to the 279 property owners who opted-in to the class by filing written elections with the Clerk of Judicial Records.” (Id.). On January 24, 2019, Paul G. Batyko III of Batyko Law LLC filed a Certificate of Service memorializing that the requisite notice was delivered to the 265 property owners. (Docket Entry No. 341 at pp. 1-14). The City of Scranton filed a Certificate of Service on February 11, 2019, attesting that the mandated notice had been mailed to the remaining 279 property owners who are part of the certified class. (Docket Entry No. 343 at pp. 1-6).

In anticipation of the settlement hearing, the parties filed a “Joint Motion for Approval of Settlement of Class Action Case” on March 8, 2019. (Docket Entry No. 344). The joint motion sets forth the foregoing litigation history and the terms of the parties’ proposed settlement. In addition to the monetary and legislative relief set forth above, the joint motion confirms that the City will also submit legislation to the City Council to abolish the tiered rate structure established by the 2016 ordinance and calculated based upon the date of payment, “and to institute a flat fee of \$50.00 per rental unit per year regardless of when paid, commencing in 2019 and continuing in 2020 and 2021.” (*Id.* at ¶ 13(c)). The City has further agreed “not to collect retroactively or seek to collect retroactively any rental registration fees prior to the enactment” of the 2016 ordinance, “and the City shall not enforce retroactively or seek to enforce retroactively any of the provisions of File of the Council No. 17 of 2012 and/or File of the Council No. 17 of 2014.” (*Id.* at ¶ 13(d)). Finally, the City has agreed to “pay a stipulated sum of \$71,100.00 to Batyko Law LLC in payment of the counsel fees and costs incurred by Plaintiffs’ counsel in representing the class matters in this litigation.” (*Id.* at ¶ 13(e)).

During the settlement hearing, plaintiffs’ counsel confirmed that all 265 class members that Batyko Law LLC ventured to serve had in fact been appropriately notified by email or ordinary mail. Of the 279 class members that the City attempted to serve, five property owners had their ordinary mail notices returned as undeliverable without any forwarding address. The City had mailed the notices to the addresses that those property owners had listed on their rental registration forms and their written elections opting into the class, and which those five owners had furnished to the Lackawanna County Tax Assessment Office. None of those five property owners had filed a notice of a change of

address with the Clerk of Judicial Records subsequent to the dates that they opted into the class.<sup>1</sup>

Several property owners attended the class settlement hearing, and all stated on the record that they did not object to the proposed settlement. Counsel for plaintiffs and the City recommended that the settlement be approved as fair and reasonable under the circumstances. By virtue of Judge Braxton's Order of May 29, 2015, requiring the City to deposit 50% of the registration fees that it collected into an escrow account, the refund and counsel fee payments exceeding \$142,000.00 in the aggregate may be paid from those escrowed funds without the necessity of any additional fees or taxes to subsidize the settlement. The City has also agreed to retain a third party vendor, at no cost to the class members, to issue the refunds authorized by the parties' settlement. In the event that the proposed settlement is approved, plaintiffs will discontinue this class action with prejudice following the payment of the refunds and counsel fees.

## II. DISCUSSION

### *(A) NOTICE TO CLASS MEMBERS*

Rule 1714(c) states that "[i]f an action has been certified as a class action, notice of the proposed compromise, settlement or discontinuance shall be given to all members of the class in such manner as the court may direct." Pa.R.C.P. 1714(c). Notice in a class

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<sup>1</sup>Since a party may be served with all legal papers other than original process via ordinary mail at his or her last known address, it is incumbent upon a party "to keep the court and opposing counsel apprised of [his/] her address." *Sklar v. Harleysville Ins. Co.*, 526 Pa. 617, 622, 587 A.2d 1386, 1389 (1991). Valid service is effectuated upon a party by mailing such a legal paper to the party's last known address that has been furnished by that party. *Parastino v. Lathrop*, 697 A.2d 1004, 1005 (Pa. Super. 1997). To the extent that those five members of the class did not receive actual notice of the terms of the settlement and the scheduled hearing, it was attributable to their own neglect in failing to furnish an updated address. See *Sklar*, 526 Pa. at 622, 623, 587 A.2d at 1389.

suit must provide a fair recital of the proposed settlement terms and inform the class members of their opportunity to be heard, and “‘may consist of a very general description of the proposed settlement, including a summary of the monetary or other benefits that the class would receive and an estimation of attorneys’ fees and other expenses.’” Fischer v. Madway, 336 Pa. Super. 289, 293, 485 A.2d 809, 811 (1984) (quoting Grunin v. International House of Pancakes, 513 F.2d 114, 122 (8th Cir. 1975), *cert. denied*, 423 U.S. 864 (1975)). “The notice need not provide a complete source of settlement information, and class members are not expected to rely upon the notices as such.” Id. at 293-294, 485 A.2d at 811; 5A. Goodrich Amram 2d § 1714(c): 1 (Feb. 2019).

The Order of January 23, 2019, set forth the terms of the proposed settlement, including the monetary payments and legislative changes that will benefit the class members, as well as the payment of their counsel fees and expenses by the City of Scranton. (Docket Entry No. 340). Plaintiffs’ counsel and the City of Scranton furnished notice to 539 class members by delivering a copy of that detailed Order to them, with the remaining five class members ostensibly not receiving notice due to their failure to provide change of address information as required by law. (Docket Entry Nos. 341-343). Consequently, the class members were furnished with sufficient notice of the proposed settlement in compliance with Rule 1714(c) and Fischer.

#### *(B) CRITERIA FOR COURT APPROVAL*

Rule 1714 governs the settlement of class actions, and states that “[n]o class action shall be compromised, settled or discontinued without the approval of the court after hearing.” Pa.R.C.P. 1714(a). In order for a class settlement to be approved, the proffered

settlement “must be fair, reasonable and adequate.” Treasurer of State v. Ballard Spahr Andrews & Ingersoll LLP, 866 A.2d 479, 484 (Pa. Cmwlth. 2005). “In effect the court should conclude that the settlement secures an adequate advantage for the class in return for the surrender of litigation rights.” In re Bridgeport Fire Litigation, 8 A.3d 1270, 1285 (Pa. Super. 2010) (quoting Buchanan v. Century Federal Savings and Loan Ass’n, 259 Pa. Super. 37, 46-47, 393 A.2d 704, 709 (1978)), *app. denied*, 611 Pa. 119, 23 A.3d 1003 (2011). “[S]ettlements are favored in class action lawsuits, and...the standard of review of the trial court’s acceptance or rejection of a settlement proposal is abuse of discretion.” Dauphin Deposit Bank & Trust Co. v. Hess, 556 Pa. 190, 197, 727 A.2d 1076, 1080 (1991).

After the court has made a preliminary fairness evaluation of the proposed settlement terms, it must conduct a “formal fairness hearing” at which time “arguments and evidence may be presented in support of and in opposition to the settlement.” Brophy v. Philadelphia Gas Works and Philadelphia Facilities Management Corp., 921 A.2d 80, 88 (Pa. Cmwlth. 2007). The appropriate factors to consider in approving or disapproving a class action settlement are: “(1) the risks of establishing liability and damages; (2) the range of reasonableness of the settlement in light of the best possible recovery; (3) the range of reasonableness of the settlement in light of all the attendant risks of litigation; (4) the complexity, expense and likely duration of the litigation; (5) the state of the proceedings and the amount of discovery completed; (6) the recommendations of competent counsel; and (7) the reaction of the class to the settlement.” *Id.* at 197, 727 A.2d at 1079-1080; Buchanan, *supra*. Since “there will usually be a difference of opinion as to the appropriate value of a settlement..., judges should analyze a settlement in terms

of a 'range of reasonableness' and should generally refuse to substitute their business judgment for that of the proponents.'" In re Bridgeport Fire Litigation, 8 A.3d at 1285 (quoting Buchanan, 259 Pa. Super. at 47, 393 A.2d at 709). The absence of any objections to the settlement "by the class members is entitled to nearly dispositive weight in the court's evaluation of the proposed settlement.'" Ballard Spahr Andrews & Ingersoll, 866 A.2d at 484 (quoting In re Linerboard Antitrust Litigation, 296 F.Supp.2d 568, 578 (E.D. Pa. 2003)).

To properly consider the factors relevant to the approval or disapproval of the parties' settlement proposal, a comprehensive review of the issues initially raised, the matters previously decided, and the claims remaining in this class litigation is warranted. As noted above, plaintiffs originally challenged the rental registration fees created by the 2014 ordinance, and sought (1) a declaratory judgment that those fees were illegal revenue-raising measures, (2) recovery of compensatory damages for "the excess revenue and income derived" from those fees, and (3) an injunction enjoining the City from collecting those increased fees. (Docket Entry No. 1 at ¶¶ 64-72, 86-96). Prior to the assignment of this class action to the undersigned on October 15, 2015, (Docket Entry No. 20), plaintiffs filed a petition on May 26, 2015, seeking a preliminary injunction barring the City from collecting any rental registration fees under the 2014 ordinance pending the conclusion of this class action, and also requesting that the City "account for all fees collected" under the 2014 ordinance. (Docket Entry No. 2).

On May 29, 2015, Senior Judge John Braxton issued an Order directing the City to: (1) "deposit into a separate escrow account fifty percent (50%) of any and all registration fees it receives by May 31, 2015;" (2) "extend indefinitely the May 31, 2015

deadline for the payment of the 2015 rental registration fees for all of the named Plaintiffs;" and (3) refrain from "any actions or measures to enforce or collect the 2015 rental registration fees that the named Plaintiffs do not pay by the May 31, 2015 deadline." (Docket Entry No. 4 at ¶¶ 1-3). Following a subsequent hearing on June 8, 2015, Judge Braxton entered another Order continuing the directives that the City (a) deposit fifty percent (50%) of the "rental registration fees it receives in, for, and/or after 2015" into a separate escrow account and (b) indefinitely extend "the May 31, 2015 deadline for the payment of the 2015 rental registration fees." (Docket Entry No. 9 at ¶¶ 1-2). He also ordered that the City "forego and hold in abeyance the collection of any and all rental registration fees beginning in 2016 and thereafter, under the current ordinances (File of the Council 17, 2012 and File of Council 7 of 2014), pending the outcome of the underlying lawsuit filed to No. 3499 of 2015." (*Id.* at ¶ 3).

On February 17, 2016, the City filed a motion seeking to dismiss plaintiffs' claims for compensatory damages and requests for declaratory judgment and injunctive relief. (Docket Entry No. 26). The City sought to strike any claims for compensatory damages in this class action litigation based upon appellate case law recognizing that claims for refunds from municipalities under Section 1 of the Refund Act, Act of May 21, 1943, P.L. 349, *as amended*, 72 P.S. § 5566b, may only be pursued personally by an individual "and may not be transferred by way of a class action." (*Id.* at ¶ 6) (quoting Aronson v. City of Pittsburgh, 98 Pa. Cmwlth. 1, 6, 510 A.2d 871, 873 (1986)). Plaintiffs conceded "that the foregoing decisional precedent bars plaintiffs from seeking rental registration fee refunds by way of a class action," but nevertheless argued "that their separate requests for declaratory judgment and injunctive relief may be certified for a class proceeding."



Guiffida v. City of Scranton, 2016 WL 808684, at \*3 (Lacka. Co. 2016). Relying upon Israelit v. Montgomery County, 703 A.2d 722 (Pa. Cmwlth. 1997), *app. denied*, 555 Pa. 735, 725 A.2d 184 (1998), which recognized that “taxpayers cannot pursue their requests for tax refunds through a class action” but may nonetheless pursue their “claims for declaratory and injunctive relief” in a class action, Id. at 724-725, we denied the City’s motion to dismiss plaintiffs’ class action requests for the issuance of a declaratory judgment and a permanent injunction. Guiffida, *supra*, at \*4.

Plaintiffs filed a motion pursuant to Pa.R.C.P. 1707 requesting certification of this proceeding as a class action, and at the time of the class certification hearing on March 2, 2016, the parties agreed to the certification of a class action “for those property owners who paid residential rental registration and permit fees in 2014 or 2015 pursuant to the fee schedule set forth in File of the Council No. 7 of 2014.” (Docket Entry No. 34 at ¶ 2). The issues certified for class action consideration were expressly “limited to the claims for declaratory judgment and injunctive relief that are set forth in the ‘class action complaint’ filed in this matter,” and in accordance with Pa.R.C.P. 1711(b), the class was “certified on an ‘opt-in’ basis pursuant to which a prospective member of the class must file a timely written election to be included in the class after receiving proper notice of the class action.” (Id. at ¶¶ 3, 5). After the City produced an accounting of property owners who paid rental registration and permit fees in 2014 or 2015 under the fee schedule established by the 2014 ordinance, and those individuals and entities were duly notified of the class action in compliance with Pa.R.C.P. 1712, 544 property owners opted to become members of the class by filing opt-in elections between March 9, 2017, and May 23, 2017. (Docket Entry Nos. 37-320).

Following the City's enactment of a new rental registration ordinance in 2016, plaintiffs presented a "Petition to Enjoin the City From Collecting Rental Registration and Permit Fees Under File of Council No. 58 of 2016 Pending Final Resolution of the Class Action Case Pending at No. 3499 of 2015," and "[s]ince the relief requested in that petition involve[d] the interpretation and enforcement of paragraphs 1 and 3 of the Order of Judge John Braxton dated June 8, 2015," a hearing on that petition was conducted before Judge Braxton on July 12, 2017.<sup>2</sup> (Docket Entry No. 321). By Order dated July 19, 2017, Judge Braxton denied plaintiffs' petition to enjoin, stating that "it is premature to apply this Court's June 8, 2015, Order to the subsequently enacted Ordinance at File of Council No. 58 of 2016 until and if such time that Plaintiffs amend the Complaint to Include File of Council No. 58 of 2016." (Docket Entry No. 323). On July 27, 2017, plaintiffs filed a motion requesting leave to amend their class action complaint to include claims for declaratory judgment and injunctive relief relative to the rental registration fees that the City collects pursuant to the 2016 rental registration ordinance. (Docket Entry No. 324). On August 18, 2017, plaintiffs' motion was granted and they filed an amended complaint including claims for declaratory judgment and injunctive relief relative to the 2016 ordinance. Guiffrida v. City of Scranton, 2017 WL 3594117 (Lacka. Co. 2017).

Plaintiffs' declaratory judgment and injunctive relief claims involve the legality of the rental registration fees charged by the City and paid by plaintiffs pursuant to the 2014 and 2016 ordinances. A regulatory or license fee that is imposed by a municipality to

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<sup>2</sup>On November 23, 2016, the City enacted File of Council No. 58 of 2016 repealing the prior rental registration ordinance and corresponding amendment, and requiring the annual payment of rental registration fees of \$50.00 per rental unit (if paid by April 1 of the calendar year), \$75.00 per unit (if paid after April 1 but by June 30 of the calendar year), and \$100.00 per rental unit (if paid after June 30 of the calendar year.) (Docket Entry No. 324 at ¶ 5).

register rental units “is a charge which is imposed pursuant to a sovereign’s police power for the privilege of performing certain acts, and which is intended to defray the expense of regulation.” Greenacres Apartments, Inc. v. Bristol Township, 85 Pa. Cmwlth. 572, 575, 482 A.2d 1356, 1359 (1984). Such a fee is distinguishable “from a tax, or revenue producing measure, which is characterized by the production of large income and a high proportion of income relative to the costs of collection and supervision.” Simpson v. City of New Castle, 740 A.2d 287, 292 (Pa. Cmwlth. 1999) (quoting Greenacres Apartments, supra). Thus, if a license or regulatory “fee collects more than an amount commensurate with the expense of administering the license, it would become a tax revenue and cease to be a valid license fee.” Thompson v. City of Altoona Code Appeals Board, 934 A.2d 130, 133 (Pa. Cmwlth. 2007) (residential rental unit fee was valid exercise of city’s police power since the rental registration and inspection program collected \$516,137.00 in fees, and the costs of the program totaled \$677,799.00); Simpson, supra (“In this case, just as in Greenacres Apartments, the uncontradicted evidence that the cost of regulation for the residential rental program was roughly equivalent to the amount raised from the biennial \$30 fee imposed a regulatory fee and not a tax.”). Although the courts originally analyzed regulatory fees by determining whether they were “reasonably commensurate” with the direct costs of the regulatory program, the Commonwealth Court recently held that the trial court may reject such a “direct cost analysis” and instead adopt a “full cost approach” that also considers indirect costs in deciding whether the rental registration fees are “grossly disproportionate to the sum required to pay the cost” of the rental registration program. Costa v. City of Allentown, 153 A.3d 1159, 1165-1166 (Pa. Cmwlth. 2017), *app. denied*, 643 Pa. 108, 172 A.3d 588 (2017).

As the parties challenging the rental registration fees, plaintiffs bear the burden of proving that the fees established and collected are “grossly disproportionate” to the direct and indirect costs attributable to the rental registration program. Id. at 1165; Thompson, 934 A.2d at 133. In making that determination, “[a]ll doubt must be resolved in favor of the reasonableness of the fee, since the municipality must be given reasonable latitude in anticipating the expense of enforcing the ordinance.” Id. Consequently, the trial of this class action would involve a proverbial battle of the experts retained by plaintiffs and the City, the methodologies that those experts employed in formulating their opinions, and their respective calculations of the appropriate costs incurred by the City in implementing and enforcing its rental registration program. *See, e.g.,* Costa, 153 A.3d at 1162-1168. Even assuming *arguendo* that plaintiffs succeeded with their declaratory judgment claim that the rental registration fees constitute impermissible revenue producing measures, they could not obtain monetary relief in this class action since the Refund Act has been interpreted as providing only a personal right to sue for an individual refund, which refund may not be pursued by way of a class action. Zarwin v. Montgomery County, 842 A.2d 1018, 1024 (Pa. Cmwlth. 2004); Israelite, 703 A.2d at 725; Aronson, 98 Pa. Cmwlth. at 6, 510 A.2d at 873.

The parties’ proposed settlement essentially yields the same result to plaintiffs that a favorable declaratory judgment ruling would produce for them inasmuch as it reduces the annual registration and permit fees from \$50.00/rental unit and \$150.00/site to \$45.00 per unit. Furthermore, although plaintiffs would have been required to thereafter pursue individual refunds under the Refund Act even if they succeeded with their declaratory judgment claim, the parties’ settlement authorizes immediate refunds of \$75.00 per

property for 2014 *and* 2015. The legislative and monetary relief secured by plaintiffs under the settlement comes at no additional cost to them since the City has agreed to pay plaintiffs' lawyers the sum of \$71,100.00 for their counsel fees and costs incurred. By virtue of the fact that the City had been required to pay 50% of the increased fees collected into an escrow account, the City is capable of funding the entire settlement from proceeds that are currently available in that escrow fund.

Plaintiffs would bear considerable risk in establishing their right to a declaratory judgment since the fact-finder would be at liberty to find one expert's opinions more credible and worthy of belief and to base the verdict upon that evidentiary finding. *See Costa*, 153 A.3d at 1168. In light of the attendant risks associated with this litigation, the proffered settlement falls within the "range of reasonableness." The parties' settlement is the product of almost four years of litigation involving considerable time and effort, as reflected by the 343 docket entries. It also bears noting that class counsel has recommended the proposed settlement, and that no member of the class has objected to the settlement.

Based upon the parties' submissions, the proposed settlement is "fair, reasonable and adequate," particularly in light of the "grossly disproportionate" test most recently employed in *Costa* and the fact-finder's discretion to utilize a "full cost approach," rather than a "direct cost analysis," in making that determination. The class plaintiffs have effectively secured their declaratory judgment relief while simultaneously obtaining refunds that they would otherwise be compelled to obtain on an individual basis. The settlement is equally fair to the City's taxpayers inasmuch as it will be funded by

escrowed funds without the need for any additional assessments or taxes. Accordingly, the settlement will be approved pursuant to Pa.R.C.P. 1714(a).

*(C) COUNSEL FEES*

The determination of class counsel's fees and expenses must also be addressed when approving the parties' settlement. In fixing the amount of counsel fees to be paid to class counsel, the court should consider: "(1) the time and effort reasonably expended by the attorney in the litigation; (2) the quality of the services rendered; (3) the results achieved and benefits conferred upon the class or upon the public; (4) the magnitude, complexity and uniqueness of the litigation; and (5) whether the receipt of a fee was contingent on success." Pa.R.C.P. 1717. "The order in which these factors are listed in the Rule is not in any way intended to suggest an order of priority on comparative importance in the determination of the fee." In re Bridgeport Fire Litigation, 8 A.3d at 1289.

Plaintiffs' counsel commenced this action on May 26, 2015, and during the ensuing 46 months have filed more than a dozen motions, petitions, and briefs, (Docket Entry Nos. 2, 16, 18, 23, 25, 28, 31-32, 282, 324, 327, 329), and have attended at least 16 hearings and conferences. (Docket Entry Nos. 3, 21-22, 27, 30, 34, 36, 283, 321, 323, 330, 333, 335, 339-340). Counsel undertook and completed the arduous task of examining voluminous records that were produced by the City in order to ascertain the identity and location of all potential class members. Plaintiffs' counsel also devised the class notice under Pa.R.C.P. 1712, and assumed the responsibility for serving that notice upon all prospective class members. The class members have not only secured their

requested declaratory judgment and injunctive relief, but have also received the prompt benefit of monetary recovery that they would be obligated to seek on an individual basis. The stipulated counsel fees represent payment of \$17,775.00 per year for legal services provided from May 26, 2015 to the present. Based upon the factors set forth in Rule 1717, the stipulated counsel fees of \$71,100.00 are fair and reasonable, and were necessarily incurred, and will therefore be approved.

ADAM GUTFRIDA, DINAMICO	:	IN THE COURT OF COMMON PLEAS
CORPORATION, 1218 VINE LLC,	:	OF LACKAWANNA COUNTY
448 TAYLOR LLC, 619 PRESCOTT LLC,	:	
718 PRESCOTT LLC, 805 QUINCY LLC,	:	
926 MADISON LLC, 945 QUINCY LLC	:	
PALAZZETTO LLC, 932 CAPOUSE LLC,	:	
612 CAPOUSE LLC, and 609 GIBSON LLC,	:	
	:	
Plaintiffs	:	CLASS ACTION
	:	
	:	NO. 15 CV 3499
vs.	:	
	:	
CITY OF SCRANTON,	:	
	:	
Defendant	:	
	:	

### ORDER

AND NOW, this 11th day of March, 2019, upon consideration of the "Joint Motion for Approval of Settlement of Class Action Case" filed on March 8, 2019, and the evidence and argument presented during the class action settlement hearing on March 11, 2019, and based upon the reasoning set forth in the foregoing Memorandum, it is hereby ORDERED and DECREED that:

1. The "Joint Motion for Approval of Settlement of Class Action Case" is GRANTED pursuant to Pa.R.C.P. 1714 and the proposed settlement of this class action is APPROVED;

2. Per the terms of the parties' settlement, the City of Scranton shall take the following action:



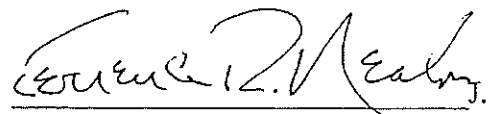
- (a) The City shall pay those property owners, who have opted-in to the class and paid rental registration fees in 2014 and/or 2015 pursuant to File of the Council No. 7 of 2014, a refund of \$75.00 per property for each of those years;
- (b) The City shall submit legislation to the City Council of Scranton to establish a rental registration fee of \$45.00 per unit under File of the Council No. 58 of 2016, as amended, commencing in 2020 and continuing in 2021;
- (c) The City shall submit legislation to the City Council of Scranton to abolish the tiered rate structure of File of the Council No. 58 of 2016, specifically in Section 4(B) (i.e., the provision mandating \$50.00 per rental unit if paid by April 1 of the calendar year, \$75.00 per unit if paid after April 1, but by June 30 of the calendar year, and \$100.00 per rental unit if paid after June 30 of the calendar year), and to institute a flat fee of \$50.00 per rental unit per year regardless of when paid, commencing in 2019 and continuing in 2020 and 2021;
- (d) The City shall not collect retroactively or seek to collect retroactively any rental registration fees prior to the enactment of File of the Council No. 58 of 2016, and the City shall not enforce retroactively or seek to enforce retroactively any of the provisions of File of the Council No. 17 of 2012 and/or File of the Council No. 7 of 2014; and

(e) The City shall pay a stipulated sum of \$71,100.00 to Batyko Law LLC in payment of the counsel fees and costs incurred by Plaintiffs' counsel in representing the class members in this litigation.

3. The requested counsel fees and costs incurred by plaintiffs' counsel in the amount of \$71,100.00 are found to be fair and reasonable under Pa.R.C.P. 1717; and

4. Once the payments and actions required by paragraph 2 above have been completed, counsel for plaintiffs shall file a praecipe to discontinue this matter with prejudice pursuant to Pa.R.C.P. 1717(a).

BY THE COURT:

  
Terrence R. Nealon

cc: *Written notice of the entry of the foregoing Memorandum and Order has been provided to each party pursuant to Pa. R. C. P. 236 (a)(2) and (d) by transmitting time-stamped copies via electronic mail to:*

Paul G. Batyko III, Esquire  
Batyko Law LLC  
7 Sharon Drive  
Moosic, PA 18507

[batyko2@gmail.com](mailto:batyko2@gmail.com)

Patrick Howard, Esquire  
Charles J. Kocher, Esquire  
Saltz, Mongeluzzi, Barrett & Bendesky, P.C.  
Suite 218, 120 Gibraltar Road  
Horsham, PA 19044  
Counsel for Plaintiffs

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Jessica Eskra, Esquire  
City Solicitor  
Joseph Gardner Price, Esquire  
Assistant City Solicitor  
Scranton City Hall – Law Department  
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Scranton, PA 18503  
Counsel for Defendant

[jeskra@scrantonpa.gov](mailto:jeskra@scrantonpa.gov)

[joeprice@corbettpricelaw.com](mailto:joeprice@corbettpricelaw.com)

Amil M. Minora, Esquire  
700 Vine Street  
Scranton, PA 18510  
Solicitor, Scranton City Council

[amil.minora@gmail.com](mailto:amil.minora@gmail.com)



**DEPARTMENT OF LAW**

PENNSYLVANIA CITY HALL • 340 NORTH WASHINGTON AVENUE • SCRANTON, PENNSYLVANIA 18503 • PHONE: 570-348-4105 • FAX: 570-348-4263

March 25, 2019

RECEIVED

MAR 25 2019

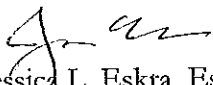
OFFICE OF CITY  
COUNCIL/CITY CLERK

To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

Dear Honorable Council Members:

ATTACHED IS AN ORDINANCE AMENDING FILE OF THE COUNCIL NO. 58, 2016 AS AMENDED, AN ORDINANCE "ESTABLISHING A REGISTRATION PROGRAM FOR RESIDENTIAL RENTAL PROPERTIES; REQUIRING ALL OWNERS OF RESIDENTIAL RENTAL PROPERTIES TO DESIGNATE A PROPERTY MANAGER FOR SERVICE OF PROCESS AND PRESCRIBING DUTIES OF OWNERS, PROPERTY MANAGERS AND OCCUPANTS" BY AMENDING SECTION 4 (A)(1) AND (B)(1) AND (2), AND SECTION 10(A) TO ABOLISH THE TIERED RATE STRUCTURE FOR 2019 AND REDUCE THE RENTAL REGISTRATION FEE FOR 2020 AND 2021.

Respectfully,

  
Jessica L. Eskra, Esquire  
City Solicitor

JLE/sl

RESOLUTION NO. \_\_\_\_\_

2019

**APPOINTMENT OF P. JAMES WINTERMANTEL, 3 MOUNTAIN LAKE ROAD, SCRANTON, PENNSYLVANIA, 18505, AS A MEMBER OF THE BOARD OF THE SCRANTON PARKING AUTHORITY EFFECTIVE MARCH 28, 2019. MR. WINTERMANTEL WILL BE REPLACING THOMAS BORTHWICK WHO RESIGNED MARCH 16, 2019. MR. WINTERMANTEL WILL FILL THE UNEXPIRED TERM OF THOMAS BORTHWICK WHOSE TERM IS SCHEDULED TO EXPIRE ON JUNE 1, 2021.**

WHEREAS, Thomas Borthwick resigned as a member of the Board of the Scranton Parking Authority by letter dated March 16, 2019, a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, the Mayor of the City of Scranton desires to appoint P. James Wintermantel as a member of the Board of the Scranton Parking Authority effective March 28, 2019. Mr. Wintermantel will fill the unexpired term of Thomas Borthwick who resigned March 16, 2019, whose term is scheduled to expire on June 1, 2021; and

WEREAS, P. James Wintermantel has the requisite, experience, education and training necessary to act as a member of the Board of the Scranton Parking Authority.

**NOW, THEREFORE, BE IT RESOLVED** that P. James Wintermantel, 3 Mountain Lake Road, Scranton, PA is hereby appointed as a member of the Board of the Scranton Parking Authority effective March 28, 2019. Mr. Wintermantel will fill the unexpired term of Thomas Borthwick who resigned March 16, 2019, whose term is scheduled to expire on June 1, 2021.

**SECTION 1.** If any section, clause, provision or portion of this Resolution shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Resolution so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Resolution or any portion thereof from time to time as it shall deem advisable in the best interests of the promotion of the purposes and intend of this Resolution and the effective administration thereof.

**SECTION 2.** This Resolution shall become effective immediately upon approval

**SECTION 3.** This Resolution is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Optional Plans Law", and any other applicable law arising under the laws of the State of Pennsylvania.



OFFICE OF THE MAYOR

PENNSYLVANIA CITY HALL • 340 NORTH WASHINGTON AVENUE • SCRANTON, PENNSYLVANIA 18503 • PHONE: 570-348-4101 • FAX: 570-348-4251

March 28, 2019

Honorable Council of The City of Scranton  
340 N. Washington Avenue  
Scranton, Pa. 18503

RE: Scranton Parking Authority Board Appointment

Dear Council Members:

Please be advised that I am appointing, P. James Wintermantel, 3 Mountain Lake Rd., Scranton, Pennsylvania 18505, as a member of the Board of the Scranton Parking Authority Board effective March 28, 2019.

Mr. Wintermantel will fill the unexpired term of Thomas Borthwick whose term is scheduled to expire June 1, 2021.

I respectfully request City Council's concurrence in this appointment.

Sincerely,



William L. Courtright

WLC/mm

CC: Jessica Eskra, City Solicitor  
David Bulzoni, Business Administrator  
Scranton Parking Authority Board  
P. James Wintermantel

# TODD JOHNS LAW, LLC



1144 East Drinker Street  
Dunmore, Pennsylvania 18512  
todd@tjpalaw.com

Phone: (570)-876-6903

Fax: (570)-961-5908

March 26, 2019

Mayor William Courtright  
City Hall  
340 North Washington Avenue  
Scranton, PA 18503

Patrick Rogan,  
Council President  
City Hall  
340 North Washington Avenue  
Scranton, PA 18503..

**RE: Scranton Parking Authority  
Resignation of Tom Borthwick**

Gentlemen:

Enclosed please find the March 16, 2019 Resignation letter of Tom Borthwick resigning from the Scranton Parking Authority. As you are aware, this now creates two (2) openings on the Scranton Parking Authority Board of Directors pursuant to the February 5, 2019 resignation of Joseph Wechsler.

I would respectfully request that replacement Board Members be appointed at your earliest convenience.

The next scheduled Scranton Parking Authority Board Meeting is set for May 28, 2019, so I would again respectfully request that the new members, if possible, be appointed prior to the next meeting. Thank you.

Very truly yours,

Todd A. Johns, Esquire  
Executive Director/Solicitor  
of the Scranton Parking Authority

TAJ/kba





Todd Johns &lt;todd@tjpalaw.com&gt;

---

**Resignation Letter**

1 message

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Tom Borthwick [REDACTED]  
To: Todd Johns: <todd@tjpalaw.com>

Sat, Mar 16, 2019 at 10:31 AM

Hey Todd,

This is obviously addressed to you, but I'm sure the Mayor's Office and Council needs to see this. Can you pass it along to whomever needs it? Thanks!

Dear Attorney Johns,

It is with great regret to inform you that I hereby resign my position as a member of the Scranton Parking Authority, effective immediately. My new position as a Scranton School Director requires the vast majority of my time and I feel that I can no longer adequately continue my duties as a member of the Authority.

Having served on the Authority has been both a great pleasure and honor, as the monetization of the parking system was an important and necessary part of helping the city of Scranton to move toward fiscal solvency.

I extend my deep and sincere thanks to both Mayor Courtright and Scranton City Council for putting faith in me.

Sincerely,

Tom Borthwick



DEPARTMENT OF LAW

CITY HALL • 340 NORTH WASHINGTON AVENUE • SCRANTON, PENNSYLVANIA 18503 • PHONE: 570-348-4105 • FAX: 570-348-4263

RECEIVED

APR 01 2019

OFFICE OF CITY  
COUNCIL/CITY CLERK

April 1, 2019

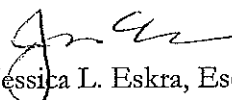
To the Honorable Council  
Of the City of Scranton  
Municipal Building  
Scranton, PA 18503

Dear Honorable Council Members:

ATTACHED IS A RESOLUTION AUTHORIZING APPOINTMENT OF P. JAMES WINTERMANTEL, 3 MOUNTAIN LAKE ROAD, SCRANTON, PENNSYLVANIA, 18505, AS A MEMBER OF THE BOARD OF THE SCRANTON PARKING AUTHORITY EFFECTIVE MARCH 28, 2019. MR. WINTERMANTEL WILL BE REPLACING THOMAS BORTHWICK WHO RESIGNED MARCH 16, 2019. MR. WINTERMANTEL WILL FILL THE UNEXPIRED TERM OF THOMAS BORTHWICK WHOSE TERM IS SCHEDULED TO EXPIRE ON JUNE 1, 2021.

THE ADMINISTRATION HAS VERIFIED THAT THE APPOINTEE HAS NO DELINQUENT CITY TAX OR REFUSE PAYMENTS DUE.

Respectfully,

  
Jessica L. Eskra, Esquire  
City Solicitor

JLE/sl

RESOLUTION NO. \_\_\_\_\_

2019

**AUTHORIZING SUPPORT OF RESTORE PENNSYLVANIA, AN INFRASTRUCTURE IMPROVEMENT PLAN WHICH WILL PROVIDE AN ADDITIONAL \$4.5 BILLION TO ASSIST COMMUNITIES ACROSS PENNSYLVANIA COMBAT BLIGHT; DEVELOP STORMWATER MANAGEMENT AND FLOOD PLANS; PROVIDE HIGH-SPEED INTERNET ACCESS; AND INVEST IN TRANSPORTATION INFRASTRUCTURE PROJECTS; WHICH WILL BE ADVANTAGEOUS TO THE CITY OF SCRANTON IN DEALING WITH THESE ISSUES.**

**WHEREAS**, Pennsylvania must position its communities for success and position itself as a leader in the 21<sup>st</sup> century by investing in critical infrastructure needs that for too long have been neglected; and

**WHEREAS**, to help build a better future for all Pennsylvanians, Restore Pennsylvania will invest \$4.5 billion over the next four-years in significant, high-impact projects throughout the Commonwealth to help catapult Pennsylvania ahead of every state in the country in terms of technology, development, and infrastructure; and

**WHEREAS**, Restore Pennsylvania provide grants to municipalities moving forward with Pollutant Reduction Plans to help them implement creative solutions to comply with stormwater mandates; additional state funding will reduce the need for excessive stormwater fees, which have proven unpopular where they have been proposed. Additional incentives will be provided for communities that are working collaboratively with their neighbors to tackle the problem in the most efficient manner possible; and

**WHEREAS**, Restore Pennsylvania will provide funding to bridge the digital divide, supporting the installation of infrastructure to bring high-speed internet to communities across the Commonwealth and making Pennsylvania a better place to work, do business and live; and

**WHEREAS**, Restore Pennsylvania will provide funding to assist individuals who suffer severe weather-related losses and funding to help communities prepare for flooding and severe weather, upgrade flood walls and levees, replace high-hazard dams, and conduct stream restoration and maintenance; and

**WHEREAS**, Restore Pennsylvania will address blight by providing financial resources to local communities to acquire and demolish blighted buildings in order to create new development opportunities or provide new green space; and

**WHEREAS,** Restore Pennsylvania will enable new environmental projects and new recreational opportunities across the Commonwealth, including infrastructure and maintenance in state parks, local water quality improvements on farms, and funding for new hiking, biking and trail projects; and

**WHEREAS,** Restore Pennsylvania will provide funding for local road upgrades, create new flexible funding options for businesses that need local infrastructure upgrades to enable development projects, and multimodal and large-scale capital projects for transit; and

**WHEREAS,** Restore Pennsylvania projects will be driven by local input about local needs, and projects will be evaluated through a competitive process to ensure that high-priority, high-impact projects are funded and needs across Pennsylvania are met.

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Scranton, Lackawanna County, Pennsylvania, does hereby support Governor Tom Wolf's Restore Pennsylvania initiative and strongly urges the Pennsylvania General Assembly to also support Restore Pennsylvania.

**SECTION 1.** If any section, clause, provision or portion of this Resolution shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Resolution so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Resolution or any portion thereof from time to time as it shall deem advisable in the best interests of the promotion of the purposes and intent of this Resolution and the effective administration thereof.

**SECTION 2.** This Resolution shall become effective immediately upon approval.

**SECTION 3.** This Resolution is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Optional Plans Law", and any other applicable law arising under the laws of the State of Pennsylvania.



Governor Wolf's vision for Pennsylvania includes vibrant towns and cities with new development, opportunities in rural and disadvantaged areas, and a modern, interconnected commonwealth.

Unfortunately, after decades of neglect and disinvestment, Pennsylvania is falling behind. More than 800,000 Pennsylvanians do not have access to high speed internet. Heavy rains throughout 2018 demonstrated vividly and tragically that our flood mitigation planning and infrastructure has not kept up, leaving communities and individuals throughout the state with massive cleanup costs, and few options to turn to for assistance. Our third-class cities, towns, and boroughs face blight problems that lower property values, limit new development opportunities, and discourage private investment. Businesses looking to relocate or expand in Pennsylvania struggle to find pad-ready sites to quickly build out new locations. Pennsylvania is not well positioned to take advantage of the manufacturing opportunities created by natural gas. Across the state, too many residents are impacted by contaminants from industries of the past. Many Pennsylvanians live in homes with legacy contamination issues such as lead, while others are learning of risks from recently identified contamination such as PFAS and PFOA.

It is time to make sure Pennsylvania is a leader in the 21st century. We need to position all of our communities for success. We need to connect every Pennsylvanian to high speed internet, whether you live in Sullivan County or North Philadelphia. We need to protect communities from severe flooding and other natural disasters. We need to rebuild our neighborhoods and eliminate blighted homes and vacant industrial sites so we can build new manufacturing facilities and businesses. We need to position Pennsylvania to take advantage of the natural gas beneath our feet, so that we build the next generation of advanced manufacturers right here in order to use our natural resources, not just ship them out of state. We need to provide these manufacturers and businesses the support they need to become more energy efficient and competitive.

To achieve these goals, Governor Wolf is announcing a major new infrastructure initiative, RESTORE PENNSYLVANIA, funded by the monetization of a commonsense severance tax. RESTORE PENNSYLVANIA will invest \$4.5 billion over the next four-years in significant, high-impact projects throughout the commonwealth to help catapult Pennsylvania ahead of every state in the country in terms of technology, development, and infrastructure.

Encompassing new and expanded programs to address five priority infrastructure areas outlined below, RESTORE PENNSYLVANIA projects will be driven by local input about local needs. Projects identified by local stakeholders will be evaluated through a competitive process to ensure that high priority, high impact projects are funded and needs across Pennsylvania are met.

## **High Speed Internet Access**

We increasingly live in a knowledge-driven economy, making access to high-speed internet essential to our daily lives and economy. Over 800,000 Pennsylvanians lack access to robust, reliable, high-speed internet. Over 520,000 of residents without access reside in rural areas and while another 250,000 reside in urban areas. Lack of quality internet access means businesses are not able to market themselves and conduct business online, our children miss out on learning opportunities, and health care facilities cannot share information with specialists. According to Windstream Communications, building a new fiber line can cost up to \$50,000 a mile. Pennsylvania must make a significant investment in high speed internet infrastructure to connect every corner of the commonwealth.

Connecting Pennsylvanians to high speed internet is the most meaningful rural economic development initiative we can undertake today, and succeeding will require a significant investment from the commonwealth as well as partnerships with the federal government and stakeholders. Although there has been recent progress, like the commonwealth providing a \$1.5 million grant to help connect 1,400 Tri-County Rural Electric Cooperative members, it is clear that we need a massive investment to make sure all Pennsylvanians are benefiting from advancements in technology. Additional investments by the state will help leverage available federal funding as well as significant private dollars.

RESTORE PENNSYLVANIA will provide funding to completely bridge the digital divide in every community in Pennsylvania, making Pennsylvania a better place to work, do business, and live. Grants will be available to support installation of infrastructure to bring high speed internet to every corner of the commonwealth. Funding will support every phase of the process from feasibility testing to connection.

## **Storm Preparedness and Disaster Recovery**

### **Critical Flood Control Infrastructure**

Last year was the wettest year on record in Pennsylvania, and modelling suggests that increased rain will continue. Communities across the state were impacted by record-breaking rainfall, flash flooding and river flooding across the state, from Philadelphia in the east and Allegheny County in the west to Bradford and Columbia in the north and widespread devastation in Schuylkill, Lebanon, York and Lancaster Counties in Central Pennsylvania, among others. A single storm in early August created more than \$60 million in damage to transportation infrastructure alone in the middle of the state. The devastation these natural disasters leave in their wake demonstrate all too clearly that Pennsylvania's legacy infrastructure needs to be updated to handle changing weather and new development.

Many needed projects involve streambank restoration to restore flow and prevent future erosion. Other projects will be for floodplain restoration, which allows stormwater to spread out and slow down, so it can be absorbed into the groundwater, rather than flooding over streambanks. Additional critical flood control infrastructure includes dams, levees and flood walls.

RESTORE PENNSYLVANIA will provide funding for flood prevention that will protect against severe weather and save homes and businesses in flood prone areas across the state. RESTORE PENNSYLVANIA will provide funding to help towns and cities prepare for flooding and severe weather, upgrade flood walls and levees, replace high-hazard dams, and conduct stream restoration and maintenance.

### Helping Families Rebuild

In the aftermath of severe storms and other disasters, homeowners who have in some cases lost everything need immediate assistance to begin to put their lives back together. While Federal Emergency Management Agency (FEMA) funding is available to assist property owners recovering from events that have been declared a Major Disaster, and funding is available from the U.S. Small Business Administration (SBA) for some smaller events, there is currently very limited help available for Pennsylvanians who experience catastrophic losses due to localized flooding or other severe weather events that were not declared a Major Disaster by the federal government.

RESTORE PENNSYLVANIA will establish a disaster relief trust fund to assist individuals who suffer losses that are not compensated by FEMA or other programs.

### Stormwater Infrastructure

Across Pennsylvania, communities large and small are struggling to implement new federal requirements that they manage stormwater to prevent pollution from flowing into local streams and rivers. Nearly a thousand communities with municipal separate storm sewer systems (MS4) are currently preparing to implement a Pollutant Reduction Plan to reduce discharges from their storm sewers into local waterways. While funding this new infrastructure is a challenge, it is also an opportunity to create local jobs to construct and maintain green infrastructure that captures stormwater where it falls while also beautifying downtowns with rain gardens, parks, and streetscape improvements.

RESTORE PENNSYLVANIA will provide grants to municipalities moving forward with Pollutant Reduction Plans to help them implement creative solutions to comply with their stormwater mandates and transform their communities. Additional state funding will reduce the need for new stormwater fees, which have proven unpopular where they have been proposed. Additional incentives will be provided for communities that are working collaboratively with their neighbors to tackle the problem in the most efficient manner possible.

### Downstream Manufacturing, Business Development, and Energy Infrastructure

Pennsylvania has always been an energy powerhouse. Our coal fueled the industrial revolution, our power plants keep lights on throughout the northeast. Over the past decade, Pennsylvania has emerged as a leading state in production of clean burning natural gas, and we currently outproduce every state but Texas. The first decade of development has seen a rush to build wells and pipelines to take gas to markets where it can be used. In the second decade, we need to focus on making sure we capture the benefits of this prolific resource in Pennsylvania to spur manufacturing and drive job creation in downstream industries.

Royal Dutch Shell is currently undertaking the largest development project that this commonwealth has ever seen in Beaver County northwest of Pittsburgh. This is the first major project of its kind in the United States built away from the Gulf Coast region in a generation. When this ethane cracker plant opens early in the 2020s, it will produce millions of pounds of plastic pellets, the building blocks for everything from water bottles to airplane parts. To realize the full potential of this massive investment, Pennsylvania needs to seize the opportunity to jump start advanced manufacturing facilities that will

take the building blocks, and turn them into high value products, employing Pennsylvanians with well paid, family supporting jobs.

To prepare for this opportunity and assist existing manufacturers and businesses across the state to take advantage of the benefits of locally-produced natural gas to lower costs, reduce emissions, and power an advanced industrial revolution in Pennsylvania, RESTORE PENNSYLVANIA will provide funding for infrastructure that helps build manufacturing facilities and other downstream businesses for the natural gas produced in Pennsylvania while helping businesses and individuals use more of Pennsylvania's natural gas in their homes, creating jobs, lowering costs, and improving energy efficiency.

#### Downstream Manufacturing: Pad Development, Business Development, Site Selection, and Energy Efficiency

When businesses are looking to relocate or expand, they need move-in ready sites. Especially for larger manufacturers and company headquarters, pad development can be prohibitively expensive. Pennsylvania is a prime location for businesses, and we can make it easier for businesses to move and grow in the commonwealth.

RESTORE PENNSYLVANIA will provide funding to develop pad-ready locations in prime locations and areas ripe for development with an emphasis on downstream manufacturers and support for businesses. This funding will expand the extremely successful Business in Our Sites program which empowers communities and economic development partners to attract expanding businesses by building an inventory of ready sites. Approved projects can use the funding for any site development activities required to make the site shovel-ready. Sites can be previously utilized property or undeveloped property that is planned and zoned for development including former or underutilized industrial, commercial, military, mining, railroad, or institutional sites or buildings.

#### Getting Natural Gas to Businesses

While we encourage business growth and downstream manufacturing, we also need to make sure that these facilities can become more energy efficient and competitive by tapping into Pennsylvania's natural gas resources. Manufacturing and industrial businesses that convert to natural gas from other energy sources can save 50% or more in their energy costs. As these costs are frequently one of the largest for energy intensive manufacturers and industrial companies, upgrading from traditional energy sources to high efficiency combined heat and power systems can significantly improve companies' bottom lines and make Pennsylvania companies more competitive. When combined with micro-grids, these systems can help manufacturers be resilient and self-sufficient.

Since 2016, the Department of Community and Economic Development's Pipeline Investment Program has provided funding to construct the last few miles of natural gas utility lines to serve business parks, existing manufacturing and industrial enterprises. The goal of this program is to spur the creation of new jobs in the commonwealth while providing access to utility service for residents and businesses. Eligible applicants include businesses, economic development organizations, hospitals, municipalities, and school districts.

RESTORE PENNSYLVANIA will provide increased spending flexibility to ensure that more communities and businesses across the state have access to low-cost, clean-burning natural gas. RESTORE PENNSYLVANIA will



also provide grants to help downstream businesses install combined heat and power and micro-grid systems at existing or new facilities.

## **Demolition, Revitalization, and Renewal**

### **Blight Demolition and Redevelopment**

Pennsylvania is a historic state with legacy infrastructure and hundreds of thousands of blighted buildings – industrial, commercial, and residential. Blight hurts communities in many ways. It poses serious health and safety threats, costs local governments for enforcement and maintenance, reduces property values and tax revenue, and makes communities less attractive for investment. In former industrial hubs, long abandoned buildings can prevent the consolidation and development of parcels for reuse in advanced manufacturing. In third class cities like Reading, Johnstown, Erie, and many others that lost population over the last half century but are poised for a comeback, blighted properties slow the turnaround.

The legislature has taken important steps to speed the process for getting a blighted building back on the tax rolls. Leaders like Senators Pat Stefano and David Argall have helped expand Pennsylvania's response to blight. However, there are still an estimated 300,000 blighted structures in Pennsylvania. Pennsylvania needs funding for planning, demolition, remediation, and redevelopment of blight to build on the legislature's efforts.

RESTORE PENNSYLVANIA will increase resources for addressing blight by providing financial resources at the local level to establish land banks and acquire and demolish blighted buildings in order to create new development opportunities or provide new green space. The funding will be administered by entities established by the legislature as land banks or demolition funds.

### **Brownfield Clean-Up**

In communities across the state, underutilized and abandoned former industrial and commercial sites sit waiting for cleanup to unlock their potential as a catalyst for new manufacturing and economic development. Frequently these sites have existing infrastructure, historic buildings and close proximity to transportation that make them attractive locations for redevelopment and reuse. Revitalizing these locations improves the health and quality of life of our citizens and injects much-needed revenue into our local communities by returning once lifeless properties to the tax rolls.

Pennsylvania's land recycling program has long been lauded as a national model for the successful cleanup of brownfields, with over 6,000 sites having been successfully cleaned up and returned to productive use. With the long-anticipated phase out of the Capital Stock and Franchise Tax in 2016, which helped fund the program, there is now a need to identify funding to ensure that this critical work can continue.

RESTORE PENNSYLVANIA will provide funding to ensure the continuation of Pennsylvania's Brownfields program, ensuring that more sites can be returned to use for recreation, or returned to the tax rolls as commercial, residential, or industrial sites.

### **Contaminant Remediation**

In addition to remaining brownfields, many residential homes and neighborhoods still face issues with contaminants like lead and Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS).

Studies continue to find elevated lead levels in blood tests of Pennsylvania's youngest residents, a result of Pennsylvania's older housing stock, 70 percent of which was built before the 1978 ban on lead paint. Long-term exposure to lead paint can have devastating developmental consequences including lowered-IQ, memory problems, and other neurological and behavioral effects. To help prevent the ongoing exposure of Pennsylvania's most vulnerable populations, we must redouble our level of effort to remediate lead paint from homes throughout the commonwealth.

There have also been recent discoveries of PFAS contaminants in numerous communities across the commonwealth, threatening the safety of residents' drinking water. The cleanup costs associated with addressing these chemicals can be significant, and without the Hazardous Sites Cleanup Fund there are few funding options available at the state level.

RESTORE PENNSYLVANIA will fund expanded efforts to remove lead and other contaminants from communities.

#### Green Infrastructure

Pennsylvania has long recognized the need to invest to protect open space, address maintenance needs in state parks, preserve working farms, clean up abandoned mines and restore watersheds, provide funds for recreational trails and local parks, help communities address land use, and provide new and upgraded water and sewer systems. These projects help create prosperous and sustainable communities, protect the environment, add quality of life value that attracts jobs, contribute to Pennsylvania's outdoor recreation and tourism industries, and improve public health.

Moreover, the outdoor recreational opportunities provided by our state's network of parks, trails, greenways, riverfronts and other open spaces are increasingly cited as an important factor in where residents decide to live and work, creating a major incentive to invest in creating these opportunities as a strategy to attract and retain the workforce that will power Pennsylvania's economy tomorrow.

However, significant need continues to exist. Over 19,000 miles of streams and rivers do not meet federal and state water quality standards. Nearly 200,000 acres of abandoned mine land remain across 43 Pennsylvania counties. More than 2,000 working farms remain on county waiting lists to be preserved. Over 200,000 orphaned and abandoned wells pollute our landscape. There is a significant backlog of needed infrastructure work to fix deteriorating buildings, water and sewer treatment systems and trails and roads in the state parks and state forests. The legislature in recent sessions has recognized the need to continue the success of prior initiatives to address these ongoing issues, but no consensus on a new source of funding has emerged.

RESTORE PENNSYLVANIA will provide significant new funding to enable new environmental projects and new recreational opportunities across the state, including infrastructure and maintenance in state parks, creation and revitalization of new local parks, and funding for new hiking, biking and ATV trail projects.

#### Transportation Capital Projects

Pennsylvania has roughly as many state-maintained road miles as New England, New York, and New Jersey combined and keeping our large system in a state of good repair requires continued investment. The American Society of Engineers' 2018 "infrastructure report card" gives Pennsylvania a D+ rating for the quality of its roads and bridges and a D for transit. A safe and reliable transportation network is essential for Pennsylvania residents, businesses, and visitors and improving and maintaining this extensive multimodal system requires stable, sufficient funding.

Increased opportunities for reliable modes of transportation help increase opportunities for employment, expand travel options for students looking for educational opportunities, and increase options to explore Pennsylvania's tourism destinations, all of which will garner increased economic impacts for every industry, community, and Pennsylvania resident.

Now is the time to formulate the strategic vision so we are prepared to seize on the opportunities ahead – another Amazon-like employer, transportation technology opportunities, and economic development opportunities, such as transit-oriented development

RESTORE PENNSYLVANIA will provide funding for local road upgrades, create new flexible funding options for businesses that need local infrastructure upgrades to enable development projects, and multimodal and large-scale capital projects for transit.

#### PA Back Roads

With more than 120,000 miles of state and local highways, Pennsylvania has one of the largest transportation networks in the country. This sprawling network requires continuous investment to maintain, and needs are particularly pressing for the "four digit" state routes, many of which have not received attention for too long.

In addition, Pennsylvania has more than 25,000 miles of unpaved roads, about 17,500 of which are owned by local municipalities and provide access for the state's agriculture, mining, forestry, and tourism industry as well as more than 3.6 million residents. Maintenance needs for these roads have been significantly exacerbated by heavy rain throughout 2018, which created over \$125 million in floods and significant slide damage to state-maintained roads and bridges. PennDOT's Engineering District 11 in the Pittsburgh area alone is working to address damage from over 80 active landslides, including many roads that have been reduced to one lane or closed altogether. Conservation Districts across the state that administer Dirt, Gravel and Low Volume Road Programs are facing increased need caused by unprecedented rainfall.

RESTORE PENNSYLVANIA will accelerate progress of projects to resurface, repave and repair four-digit roads and provide technical assistance and funding for dirt and gravel roads throughout the state.

#### Business OnRamp

When businesses look to expand, they frequently need transportation infrastructure upgrades to support the increased flow of traffic associated with the expansion. While the state is sometimes able to leverage our allocation of federal Transportation Infrastructure Investment Funds (TIIF), these funds come with restrictions and red-tape that prevent them from being utilized for important projects, such as where the roads surrounding the expanding facility are locally owned.

RESTORE PENNSYLVANIA will create a flexible funding tool to enable capacity upgrades needed to support development where TIF funding is not available.

#### Public Transit System Projects

Throughout the state transit systems large and small are struggling to provide upgrades required to meet the shifting needs of residents, commuters, and visitors. In some instances, transit systems were built out decades ago and have not yet caught up with the needs of shifting populations. Elsewhere rural transit systems have difficulty funding needs ranging from new bus shelters to maintenance facilities for vehicles through farebox revenues alone. In numerous communities, high priority expansion projects have been studied extensively and are ready to move forward. In many others, applications for infrastructure upgrades are waiting for funding to become available.

RESTORE PENNSYLVANIA will support new capital projects at public transit capital projects throughout the state.

## PRICE BASED SEVERANCE TAX PROPOSAL

To enable the RESTORE PENNSYLVANIA plan, Governor Wolf is proposing a reasonable severance tax which will be leveraged to provide immediate benefits across Pennsylvania.

Pennsylvania remains the only gas-producing state in the country without a severance tax. With every passing year our state—the second leading producer of natural gas in the country—is losing out on the opportunity to reinvest the benefits of these resources to stimulate our economy and move Pennsylvania forward.

The proposed severance tax will be price sensitive to the natural gas sector. As producer profitability increases due to rising natural gas prices, the severance tax rate will increase as well. The following chart outlines the price-based tax structure:

Natural Gas Price Range	Tax Per Thousand Cubic Feet
\$0.01-\$2.99	\$0.091
\$3.00-\$4.99	\$0.109
\$5.00-\$5.99	\$0.131
\$6.00 or more	\$0.157

The severance tax will not make any change to the natural gas impact fee. The impact fee has assisted local communities where natural gas is extracted to invest in infrastructure, their economies, and the health and safety of residents.

The price-based severance tax will result in the following effective rates, which are in line with other major natural gas producing states including Texas:

2019/20	2020/21	2021/22	2022/23	2023/24
4.5%	4.5%	3.8%	3.4%	3.0%

The severance tax will only apply to wells that are subject to the impact fee. The following exemptions will be allowed:

- Natural gas provided to a lessor for no consideration.
- Natural gas severed from a storage field.
- Natural gas severed, sold and delivered by a producer at or within five miles of the producing site for the processing or manufacture of tangible personal property.

The tax will be effective March 1, 2020.