

BOROUGH OF EDGEWOOD
INDEX TO THE MINUTES OF THE COUNCIL MEETING OF APRIL 21, 2008

MOTION SUBJECT	MOTION NUMBER	PAGE
Adjournment	7	21
Bills	3	4
Minutes (April 7, 2008)	2	4
Minutes (March 17, 2008)	1	4
Ordinance 1023 (Local Services Tax), First Reading	5	9-20
Ordinance 1023 (Local Services Tax), Second Reading	6	21
Zambelli Fireworks Manufacturing Corporation Agreement	4	9

**BOROUGH OF EDGEWOOD
MINUTES OF THE MEETING OF COUNCIL HELD
MONDAY, APRIL 21, 2008**

President Patricia Schaefer called the Meeting of the Council of the Borough of Edgewood to order on Tuesday, April 21, 2008 at 7:34 PM in the Municipal Building.

Finance Director Kezmarsky called the roll and the following responded: Ms. McDonald, Mr. Harding, Mr. Reynolds, Mr. Szefi, Ms. Pryce, Mr. Hellett, Ms. Schaefer.

Junior Councilperson McArdle was absent.

Mayor Davin and Borough Solicitor Barry were also present.

The Pledge of Allegiance was recited.

SWEARING IN CEREMONY

Mayor Davin called newly-appointed Chief Robert C. Payne forward to swear him in.

COMMONWEALTH OF PENNSYLVANIA

ALLEGHENY COUNTY

OATH OF OFFICE

I, Robert C. Payne, do solemnly swear that I will support, obey and defend the Constitution of the United States, and the Constitution of the Commonwealth of Pennsylvania; and that I will discharge the duties of Chief of Police for the Borough of Edgewood with fidelity.

SWORN TO AND SUBSCRIBED }
BEFORE ME THIS 21st DAY OF APRIL 2008 }

Mayor Jean O. Davin

Mayor Davin thanked Chief Payne for coming and the new Chief related his work history to those in the audience. He said he was very happy to come to Edgewood and pledged that they will be proud of this police department.

ITEMS FROM THE FLOOR

Ned Shano, who grew up on Dewey Street, and has been a volunteer for many years, spoke regarding the need for a Recreation Director. He stated that the way that Recreation is currently run is causing the program to suffer. Although previously there were baseball teams at all age levels, many levels are now without players. It was Mr. Shano's opinion that the whole community is suffering without a Recreation Director. Residents, according to Mr. Shano, based their moving to Edgewood on the fact that quality recreational programming was in place.

It was also mentioned by Mr. Shano that no equipment is available.

Ms. Schaefer noted that getting coaches and volunteers has been the problem. Also, the children who were playing baseball and are now playing lacrosse are mandated not to play any other sport by their coaches. She also assured Mr. Shano that she would make sure equipment is in place.

Ms. Pryce asked what the length of time has been since a Recreation Director was in place and was answered less than a year.

Mr. Hellett, Chair of Community Services, said this is currently being reviewed.

Andrew Lang of 1210 East End Avenue, and a Board Member of the Regent Square Civic Association (RSCA), spoke of the need for better communication between residents of the two areas. He also said that the RSCA wanted more visibility and a greater voice. Mr. Lang stated that he will be attending Council meetings and relaying information to the RSCA. Mr. Lang also mentioned that the Boroughs of Wilkinsburg and Swissvale and the city of Pittsburgh are also involved in the group.

Ms. Schaefer said that Council looks forward to working with the group and Mr. Hellett thanked Mr. Lang for volunteering, stating that the timing of this interaction could not be better.

Ms. Schaefer then introduced Mr. Belmont of the Intercouncil group. Mr. Belmont indicated that out of seventeen (17) applications received, the Woodland Hills School District was one of two chosen to hear several speakers. The speaker topics include, but are not limited to, how to maintain property values and multi municipal planning.

Mr. Belmont then spoke of the Jr. High Quality Council and stated that notices concerning this group will be placed at the polling stations in an effort to get people to sign up to help the School Board in its decision making process. He also talked about the The Niagara Falls School District opening a school without raising taxes. Another item addressed by Mr. Belmont was the idea of changing the way the school directors are elected.

Ms. Schaefer stated that the representation at the Intercouncil meetings has been incredible and has garnered quality, open and energetic discussion. This, according to Ms. Schaefer, has led to Councils interacting with each other.

Ms. Schaefer then announced that no Executive Session is scheduled.

COMMITTEE ACTION

M-1 Ms. McDonald moved to approve the minutes of March 17, 2008. Second by Mr. Harding.

DISCUSSION: None.

Upon roll call vote, the following was recorded: Ms. McDonald, Mr. Harding, Mr. Reynolds, Mr. Szefi, Ms. Pryce, Mr. Hellett, Ms. Schaefer voted yes. **Motion carried.**

M-2 Ms. McDonald moved to approve the minutes of April 7, 2008. Second by Mr. Harding.

DISCUSSION: Prior to the vote, Ms. Schaefer amended the minutes to reflect the \$45,000 in undesignated funds given from the Borough's budget to the Board of Trustees of the C. C. Mellor Library and Edgewood Community House.

Following withdrawal of the motion and second by Ms. McDonald and Mr. Harding, respectively, the following was taken.

Upon roll call vote, the following was recorded: Ms. McDonald, Mr. Harding, Mr. Reynolds, Mr. Szefi, Ms. Pryce, Ms. Schaefer voted yes. Mr. Hellett abstained as he was not present for the meeting. **Motion carried.**

M-3 Ms. McDonald moved to authorize the payment of bills for goods and services received by the Borough, having been reviewed and approved by the General Government Committee, in the amount of \$29,994.54. Second by Mr. Reynolds.

DISCUSSION: None.

Upon roll call vote, the following was recorded: Ms. McDonald, Mr. Harding, Mr. Reynolds, Mr. Szefi, Ms. Pryce, Mr. Hellett, Ms. Schaefer voted yes. **Motion carried.**

COMMITTEE REPORTS

GENERAL GOVERNMENT REPORT

Ms. McDonald said that the Committee met this evening to review bills and sign checks. She also indicated the Maher Duessel audit was available for a point-by-point review by the General Government Committee.

Ms. McDonald indicated that she spent time speaking with Mr. Doyle regarding the C. C. Mellor Library and Edgewood Community House at the last meeting. She also said that an insert will be placed into the next newsletter as a fundraising effort for the historic building.

DISCUSSION: None.

POLICE REPORT

Mayor Davin reviewed the crime statistics and stated that the Part I crimes had increased, but were still below the 2007 level. Shoplifting, according to the Mayor, is on the rise, but Part II crimes are lower than last year. The Mayor stated that the rest of the activity from the report is about normal.

With regard to the first quarter report, Mayor Davin said there was nothing outstanding. A couple of burglaries occurred on West Hutchinson and there were a couple of attempted burglaries.

According to Mayor Davin, a "Click It or Ticket It" campaign took place for seatbelt safety.

DISCUSSION: A major discussion about medical reimbursement for retesting of an officer took place. It was finally decided by Ms. Schaefer that more due diligence is required.

Mayor Davin discussed jaywalking and safety in Regent Square, a topic which resulted from a Public Safety Committee meeting. The issue is serious, the Mayor said, since people walk from in between cars to cross South Braddock Avenue. It is hoped that the resurfacing of that street will not cause people to accelerate, although the area is being monitored by the police, according to Mayor Davin.

It was the Public Safety Committee's feeling that officers should walk the beat and hand out notices which state that jaywalking is against the law. The Mayor also noted that the Committee wanted to add this type of legislation into current Borough rules, thereby allowing tickets to be written.

Mr. Hellett stated that the biggest violators are those who cross with the "Don't Walk" sign. He added that, if jaywalking was being considered illegal, then this type of crossing should also be taken into consideration.

On another topic, Mayor Davin said that there was a big problem when the bridge on Edgewood Avenue was shut down, but thanks to Mr. Reynolds and Public Works Director Guerriero, the signage problem was corrected. Apparently, PennDot subcontracted the signage to another company, and this caused the problem.

Sgt. Hockenberry contacted Trumbull and they stated that if reimbursement was required for Mr. Guerriero's time, this should be submitted to them. Sgt. Hockenberry has a meeting with PennDot on Wednesday to present the bill to them.

Ms. Schaefer stated that Borough personnel need to be involved, especially the Police Department. It was Ms. Schaefer's opinion that the route should be driven and she further stated that it is disconcerting that someone put up signage without the Borough being involved.

Regarding the crosswalk issue, Solicitor Barry indicated that there is a state law which covers this issue. As well, that law authorizes local municipalities to set up their own law. Since our Police Department has reviewed this in the past, Mr. Barry felt that records probably exist regarding the issue.

Ms. McDonald indicated that the Public Safety Committee asked what would it take and what the cost would be to enact the legislation. Chief Payne suggested trying to change resident's behavior. Ms. McDonald also indicated that she had researched the e-code and found that there is nothing in the code regarding jaywalking. She stated that Mr. Barry was asked to draft this document. The concern for Ms. McDonald was that Swissvale Borough is on one side of South Braddock Avenue and they would need to pass concurrent legislation.

Mr. Barry indicated that getting Swissvale Borough involved is a legal requirement.

Ms. McDonald informed Council that Borough Manager Ferguson was trying to see if there can be additional crosswalks on Sanders Street, like the one toward the park, with the flashing light. She stated that Mr. Ferguson is working with the engineers in this regard and will report to Public Safety.

Mr. Hellett commented that, if the study shows that these measures are positive, this may be a speed reducer. He also thanked Mr. Reynolds for helping out over the weekend.

PUBLIC SAFETY

Ms. McDonald said that the Committee met on April 14, 2008, then shared the highlights of the Public Safety Report.

Ms. McDonald then asked Council's approval to use \$3,000, earmarked for a portable speed monitor device, for a police car light bar which needs to be replaced. The cost of the light bar is about \$1,900 and Chief Payne is familiar with someone who sells refurbished light bars.

DISCUSSION: Ms. Schaefer stated that a motion was not needed for this, but expressed that she appreciated the transparencies of government.

Mayor Davin pointed out that a fully-functioning light bar is needed for Parkway situations. She said this is more of a safety issue.

The Civil Service Commission has given amendments to the Commission rules, and the changes have been deemed appropriate. A motion will be made soon to adopt these, according to Ms. McDonald.

Ms. McDonald reported that FEMA has approved an emergency management plan and grants will be available to both the police and fire departments.

Ms. McDonald noted that complaints have been received regarding overnight truck parking on both Gordon and Chestnut Streets. She suggested that Mr. Guerriero, Public Works Director,

might measure streets and vehicles to see if this is a safety issue. Ms. McDonald also said that the state has changed the rules regarding truck definitions.

Ms. Schaefer asked that Solicitor Barry investigate this.

Mr. Barry stated that Sgt. Hockenberry apparently has the preliminary information regarding this.

Referring to the Civil Service Commission amendment to the rules lowering the payment to \$30, Mayor Davin suggested eliminating the cash payment provision.

COMMUNITY DEVELOPMENT

Mr. Szefi stated that he had no separate report.

DISCUSSION: None.

PUBLIC WORKS

Ms. McDonald read the highlights of the report. She then reminded residents that street sweeping season is in effect. Ms. McDonald thanked everyone for their help with Earth Day, which occurred on Saturday. The rain water barrels are also available, according to Ms. McDonald.

DISCUSSION: Mayor Davin reported receipt of a \$25,000 contract reimbursement for the paving of South Braddock Avenue.

Mr. Hellett said that the tree previously reported broken on South Braddock Avenue is again listing. He stated the problem is trucks that service the convenience store hit it. Mr. Hellett asked if this could be propped up and Ms. McDonald said she will talk with Public Works Director Guerriero.

Mayor Davin suggested talking with the business owners also.

COMMUNITY SERVICE REPORT

Mr. Hellett said that the Committee did not meet. The contract for Zambelli is in process with modifications for the fireworks display.

Mr. Hellett asked how volunteer efforts might be maximized and stated that he and Mr. Ferguson will discuss this, as well as tweaking the Recreation coordinator positions, at the next Community Services meeting.

DISCUSSION: None.

PERSONNEL COMMITTEE

Mr. Hellett had nothing to report.

DISCUSSION: None.

PENSION COMMITTEE

Mr. Szefi said that he was in the process of scheduling a meeting.

DISCUSSION: None.

AD HOC

PORT AUTHORITY AGREEMENT COMMITTEE

Mr. Reynolds said the Committee has been quite busy and has met twice. There was a meeting with Senator Costa on March 24, 2008. A discussion of the obligations mentioned in the Cooperation Agreement took place, and Mr. Reynolds spoke of the grant funds being requested.

Mr. Reynolds stated that it was agreed the Committee would go to Representative Doyle regarding the Train Station funding to bring it up to code. After an explanation of the disbursement of anticipated grant funds, Mr. Reynolds noted that the most important elements of the Agreement will be put forward first. He stated that Representative Doyle will also be speaking with Senators Casey and Specter, hopefully leading to a meeting with them.

Representative Doyle, according to Mr. Reynolds, supplied the name of the American Historic Grant Fund out of Washington, DC to apply for fifty-fifty matching funds.

DISCUSSION: President Schaefer said that there has been a lot of movement in a positive direction. She thanked Senator Costa for his help and stated that the Borough will continue to work with Port Authority Transit.

Mayor Davin questioned whether the contract lease for the Train Station had been countersigned by Port Authority and Solicitor Barry answered in the negative. Mayor Davin indicated that a check for \$1.00 should be prepared.

INTERCOUNCIL (WHSD)

Ms. McDonald stated that she had nothing to report.

DISCUSSION: None.

3 RIVERS WET WEATHER DEMONSTRATION PROJECT

Ms. Schaefer said there will be a Basin meeting on April 28, 2008 at 7:00 PM at the Turtle Creek Council of Government offices.

DISCUSSION: None.

COMPREHENSIVE PLAN

Mr. Szefi said the next meeting is April 23, 2008 at 7:00 PM at the Western Pennsylvania School for the Deaf.

DISCUSSION: None.

BOROUGH SOLICITOR REPORT

Mr. Barry reported that the three-year Zambelli Fireworks agreement is in order. The contract covers the period through 2008-10; however, Mr. Barry reported that no postponement dates are included in the contract.

A second item which Mr. Barry covered was Ordinance 1023, where he added section five covering the intention of including this in the Borough's codification.

DISCUSSION: None.

BOROUGH MANAGER REPORT

Mr. Kezmarsky had nothing to report.

DISCUSSION: None.

NEW BUSINESS

Ms. McDonald set a Public Safety Committee meeting for 7:00 PM April 28, 2008. She noted that letters of interest will be solicited for a Junior Councilperson. Ms. McDonald said that she has contacted the newsletter and the Woodland Hills Progress in this regard. She then gave the requirements to apply for this position.

COMMITTEE ACTION

M-4 Mr. Hellett moved to approve a \$15,000, three-year agreement for fireworks at Community Day for 2008, 2009 and 2010 with Zambelli Fireworks Manufacturing Corporation at a cost of \$5,000 a year. Second by Mr. Harding.

DISCUSSION: A discussion ensued regarding the increased cost for fireworks vs. the amount of money to hold Community Day. Ms. Pryce was concerned about the sixty percent (60%) increase in cost.

Upon roll call vote, the following was recorded: Ms. McDonald, Mr. Harding, Mr. Reynolds, Mr. Szefi, Ms. Pryce, Mr. Hellett, Ms. Schaefer voted yes. **Motion carried.**

M-5 Ms. McDonald offered Ordinance 1023 on First Reading and asked for its immediate adoption. Second by Mr. Hellett.

BOROUGH OF EDGEWOOD

ORDINANCE 1023

AN ORDINANCE OF THE BOROUGH OF EDGEWOOD, COUNTY OF ALLEGHENY, AND COMMONWEALTH OF PENNSYLVANIA, AMENDING AND RESTATING ARTICLE II OF CHAPTER 184 OF THE BOROUGH OF EDGEWOOD CODE OF ORDINANCES, TAXATION IN ORDER TO LEVY, ASSESS AND COLLECT A LOCAL SERVICES TAX AND TO REPEAL ITS EMERGENCY AND MUNICIPAL SERVICES TAX ON INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE BOROUGH, AND TO ESTABLISH REGULATIONS RELATED THERETO.

WHEREAS, the Local Tax Enabling Act, 53 P.S. §6901 *et seq.*, authorized the Council of the Borough of Edgewood (the "Borough") to levy, assess and collect a tax on individuals for the privilege of engaging in an occupation within the Borough formerly known as an occupation privilege tax; and

WHEREAS, the Commonwealth of Pennsylvania thereafter enacted Act 222 of 2004, which amended the Local Tax Enabling Act to replace the occupation privilege tax with an emergency and municipal services tax and to establish regulations related to the same; and

WHEREAS, thereafter, the Commonwealth of Pennsylvania adopted Act No. 7 of 2007 which provided for the repeal of the emergency and municipal services tax by providing for a local services tax; and

WHEREAS, Article II of Chapter 184 of the Borough of Edgewood Code of Ordinances, Taxation, established the regulations for the Borough's emergency and municipal services tax; and

WHEREAS, in order to comply with Act No. 7 of 2007, the Council of the Borough desires to amend and restate Article II of Chapter 184 of the Borough of Edgewood Code of Ordinances, Taxation, in order to levy, assess and collect a local services tax on individuals for the privilege of engaging in an occupation within the Borough and to establish regulations related to the same.

NOW THEREFORE the Council of the Borough of Edgewood hereby ordains and enacts as follows:

SECTION 1: Article II of Chapter 184 of the Borough of Edgewood Code of Ordinances, Taxation, is amended and restated in its entirety to read as follows:

ARTICLE II

Local Services Tax

Title.

This Article shall be known and cited as the "Local Services Tax Ordinance."

Authority.

This part is enacted under the authority of the Local Tax Enabling Act, as amended by Act No.7 of 2007.

Purpose.

The purpose of this Part is to provide revenue for police, fire and emergency services; road construction and maintenance; the reduction of property taxes and for such other purposes as may be specified for such tax from time to time by §22.6 of the Local Tax Enabling Act, as amended.

Definitions.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

POLITICAL SUBDIVISION - The area within the corporate limits of the Borough of Edgewood.

COLLECTOR - The person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.

DCED - The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

EARNED INCOME - "Compensation" as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, as amended.

HE, HIS or HIM- Indicates the singular and plural number, as well as male, female and neuter genders.

INDIVIDUAL - Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.

NET PROFITS - The net income from the operation of a business, profession, or other activity, as this term is defined in Section 13, relating to earned income taxes) of the Local Tax Enabling Act, as amended.

OCCUPATION - Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.

RESERVE COMPONENT OF THE ARMED FORCES - The United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

TAX - The local services tax levied by this Article.

TAX YEAR - The period from January 1 until December 31 in any year; a calendar year.

Levy of tax

The Borough of Edgewood hereby levies and imposes on every individual engaging in an occupation with the jurisdictional limits of the Borough of Edgewood a tax in the amount of \$52.00 per annum, beginning the first day of January 2008 and continuing on a calendar basis annually thereafter, until modified or repealed by subsequent ordinance.

Exemption and refunds.

A. Exemption. Any person whose total earned income and net profits from all sources within the political subdivision is less than Twelve Thousand (\$12,000.00) Dollars for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

- (1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or

quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent disability.

- (2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year.

B. Procedure to Claim Exemption.

- (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.
- (2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an

employer's payment to the person of earned income within the municipality in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under clause (3).

(3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this article.

(4) Except as provided in clause (2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

C. Refunds. The Borough of Edgewood, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1): The Borough of Edgewood or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

Duty of employers to collect.

- A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.
- B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Paragraph D of this Section, For purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.
- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will

notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

- E. The tax shall be no more than fifty-two dollars (\$52) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Paragraph B, titled "Procedure to Claim Exemption", under the section of this Article, titled "Exemption and refunds", and remits the amount so withheld in accordance with this article.
- G. Employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.

Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

Dates for determining tax liability and payment.

Each employer shall use his employment and payroll records from the first day of January to March 31 each year for determining the number of employees from whom said tax shall be deducted and paid over to the collector on or before April 30 of the same calendar year. Supplemental reports shall be made by each employer on July 30, October 30 and January 31 for new employees as reflected on his employment and

payroll records from April 1 to June 30, July 1 to September 30 and October 1 to December 31, and payments on these supplemental reports shall be made on July 30, October 30 and January 31, respectively.

Self-employed individuals.

Each self-employed individual who has Earned Income or realizes Net Profit, as those terms are defined herein, within the political subdivision shall be required to comply with this article and pay the tax due to the Collector on or before the thirtieth day following the end of each quarter.

Individuals engaged in more than one occupation or employed in more than one political subdivision.

A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:

- (1) First, the political subdivision in which a person maintains his or her principal office or is principally employed;
- (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
- (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

Nonresidents subject to tax.

All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves

to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

Administration of tax.

- A. It shall be the duty of the Collector to accept and receive payments of this tax and keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received. It shall be the duty of the Collector to accept and keep a record of the information submitted by employers relating to the number of employees subject to the tax, the number of employees exempt from the tax, the employee exemption certificates and refunds of the tax paid to individuals and employers.
- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Allegheny County as in other cases provided.
- C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

Suits for collection.

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.
- B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

Violations and penalties.

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

Interpretation.

- A. Nothing contained in this article shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the

Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided

SECTION 2: Except as set forth hereafter, all ordinances or parts of ordinances inconsistent herewith are hereby repealed. Nothing herein shall be construed to repeal the imposition and collection of an occupation privilege tax, plus applicable penalties and interest, for calendar year 2005 and all prior calendar years, or of an emergency and municipal services tax, plus applicable penalties and interest, for calendar years 2006 and 2007, as the same exist prior to this amendment.

SECTION 3: This Ordinance shall become effective in accordance with applicable law, with the repeal of previous Occupational Privilege and Emergency and Municipal Services Tax Ordinances, effective January 1, 2008.

SECTION 4: In all other respects, Chapter 184 of the Code of the Borough of Edgewood shall remain as heretofore enacted, ordained and amended, which said Chapter, as amended, is hereby re-enacted in its entirety herein.

ORDAINED AND ENACTED into law this 21st day of April 2008.

ATTEST

Kurt M. Ferguson
Borough Secretary

Heidi McDonald
Acting Council President

EXAMINED AND APPROVED by me this 21st day of April 2008.

Jean O. Davin
Mayor

DISCUSSION: None.

Upon roll call vote, the following was recorded: Ms. McDonald, Mr. Harding, Mr. Reynolds, Mr. Szefi, Ms. Pryce, Mr. Hellett, Ms. Schaefer voted yes. **First Reading Passes.**

- M-6 Ms. McDonald offered Ordinance 1023 on Second Reading and asked for its immediate adoption. Second by Mr. Hellett.

BOROUGH OF EDGEWOOD

ORDINANCE 1023

AN ORDINANCE OF THE BOROUGH OF EDGEWOOD, COUNTY OF ALLEGHENY, AND COMMONWEALTH OF PENNSYLVANIA, AMENDING AND RESTATING ARTICLE II OF CHAPTER 184 OF THE BOROUGH OF EDGEWOOD CODE OF ORDINANCES, TAXATION IN ORDER TO LEVY, ASSESS AND COLLECT A LOCAL SERVICES TAX AND TO REPEAL ITS EMERGENCY AND MUNICIPAL SERVICES TAX ON INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE BOROUGH, AND TO ESTABLISH REGULATIONS RELATED THERETO.

DISCUSSION: None.

Upon roll call vote, the following was recorded: Ms. McDonald, Mr. Harding, Mr. Reynolds, Mr. Szefi, Ms. Pryce, Mr. Hellett, Ms. Schaefer voted yes. **Second Reading Passes.**

ADJOURNMENT

- M-7 Mr. Szefi moved to adjourn the meeting at 8:48 PM. Second by Ms. McDonald.

DISCUSSION: None.

Upon roll call vote, the following was recorded: Ms. McDonald, Mr. Harding, Mr. Reynolds, Mr. Szefi, Ms. Pryce, Mr. Hellett, Ms. Schaefer voted yes. **Motion carried.**

Kurt M. Ferguson
Borough Manager