

WEDNESDAY, SEPTEMBER 5, 2012:

The Adams County Board of Commissioners met this date in regularly scheduled session at 9:08 a.m. in the Ceremonial Courtroom with Board Chairman Randy L. Phiel residing. The following were in attendance: Commissioners James E. Martin and Marty Karsteter Qually; Solicitor John M. Hartzell; Assistant Solicitor Kurt Behn; County Manager Albert Penksa; Controller Steve Renner; Deputy Controller Beth Cissel; Michele Miller, Human Resources Director; Melissa Devlin, Finance Director; Sherri DePasqua, Children & Youth Interim Director; Daryl Crum, Tax Services Director; Cindy Keeney, Victim Witness Director; Employees: Andrew Merkel, Comprehensive Planning Manager; Bicky Redman, Rural Resource Project Coordinator; County Citizens; Stan Clark, Jim Behm, Bob Jackson; News Reporters: Jess Haines, *The Gettysburg Times*, Steve Maroni, *Hanover Evening Sun* and Chief Clerk Paula Neiman.

Pledge of Allegiance

Minutes:

Mr. Qually moved, seconded by Mr. Martin to approve the Minutes of the September 5, 2012 Commissioners' Meeting as presented.

Motion carried.

Presentation:

Recognition and formal presentation of the 2012 Waste Watchers Award to the Adams Rescue Mission for their outstanding electronic recycling program. Chairman Phiel recognized Bruce Deatrick, Director of the Rescue Mission who noted all monies generated by this recycling program goes back to help the homeless at the Mission. Information was presented to the Board by Jim Staub, Director of the Recycling Program that provided statistics on their recycling program. Chairman Phiel thanked them for their dedicated work for the community.

Proclamations:

Mr. Qually moved, seconded by Mr. Martin to approve and proclaim September 16, 2012 as "**Adams County Heritage Festival Day**" in Adams County. This proclamation was presented to Bill Collinge.

Motion carried.

Mr. Martin moved, seconded by Mr. Qually to approve and proclaim September 2012 as "**Fetal Alcohol Spectrum Disorders Awareness Month**" in Adams County. This proclamation was presented to Eileen Grenell.

Motion carried.

Public Comment:

- Randy Inskip, PO Box 4593, Gettysburg – He was in attendance today to address the issue of the appeal hearings and respectfully request that the commissioners hear his appeals. He noted that he has presented his information to the other appeal boards before and now would like to have an unbiased appeal. Therefore he is requesting that the Board of Commissioners hear his appeals. Mr. Inskip presented a letter to the Board.
- Alexandria Escalera, Peoples Choice Adams, Gettysburg – Ms. Escalera noted that recent RAYAC numbers shows the county level ratio is up 18%. Very troubling when the market is lower than 18%. During the

2010 appeals an extension of appeal times was provided, would you consider extending again? She also asked if the CD information of her right-to-know request is ready.

Solicitor Hartzell noted he will be available after the meeting for any questions.

Ms. Escalera is also protesting the raising of the pillow tax on the tourists.

Commissioners:

Mr. Martin moved, seconded by Mr. Qually to approve to adopt Ordinance #3 of 2012 as follows:

ORDINANCE NO. 3 OF 2012

AN ORDINANCE OF THE COUNTY OF ADAMS, COMMONWEALTH OF PENNSYLVANIA, ENACTING, ESTABLISHING, LEVYING AND SETTING A HOTEL ROOM RENTAL TAX REQUIRED FOR THE SPECIFIC PURPOSES OF HE COUNTY GOVERNMENT, HEREINAFTER SET FORTH

RECITALS

WHEREAS, the Pennsylvania legislature enacted Act 142 of 2000, codified in part at 16 P.S. §1770.7, providing the opportunity for a hotel tax to be imposed upon operators of hotels within the boundary of the County of Adams, which Act was relied upon in the establishment of Ordinance 3 of 2001 by the County for the imposition of a hotel room rental tax; and

WHEREAS, the Pennsylvania legislature, by Act 142 of 2012, amended 16 P.S. §1770.7 to allow for a different hotel tax rate, as well as other changes related to the enabling legislation for such a hotel room rental tax; and

WHEREAS, the Board of Commissioners of the County of Adams (“Commissioners”), relying upon Act 142 of 2012, codified at 16 P.S. §1770.7, wish to change the hotel room rental tax ordinance to provide for a different tax rate, new funding entities, and other programs as delineated in the amended statutory authority.

NOW THEREFORE, be it **ENACTED AND ORDAINED** by the Commissioners of the County of Adams, Pennsylvania, and it is hereby **ENACTED AND ORDAINED** by the authority of the same, as follows:

SECTION 1 - TITLE

This Ordinance shall be known and be cited as the hotel Room Rental Tax Ordinance of Adams County and is enacted in accordance with such enabling legislation know as Act 142 of 2000, as amended by Act 142 of 2012, codified at 16 P.S. §1770.7.

SECTION II - INCORPORATION

The caption and recitals of this Ordinance set forth above are incorporated herein by reference and made an essential part hereof.

SECTION III - DEFINITIONS

The following words when used in this Ordinance shall have the meanings ascribed to them in this section:

1. Consideration. Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment received by operators in exchange for, or in consideration of, the use or occupancy by a transient of a room or rooms in a hotel, for any temporary period.

2. County. The County of Adams (“County”) in the Commonwealth of Pennsylvania.

3. Hotel. A hotel, motel, inn, guest house, or other structure located within the County which holds itself out by any means including advertising, license, registration with an innkeeper’s group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; and any place which advertises o the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the

public at large; or any place recognized as a hostelry. The term does not include any portions of a facility that is devoted to persons who have an established permanent residence, or a college or university residence hall.

4. Memorandum of Agreement. When executed by both parties, a legally binding agreement entered into between the County and the Gettysburg Convention and Visitors Bureau, acting as the recognized Tourist Promotion Agency ("TPA") for the County, providing details concerning the Hotel Room Rental Tax and the distribution of funds received from such tax by the County and the Gettysburg Convention and Visitors Bureau.

5. Occupancy. The use or possession or the right to use or possession by any person other than a permanent resident of any room in a hotel for any purpose or the right to use or possession of the furnishings or to the services accompanying the use and possession of the room.

6. Operator. An individual, partnership, non-profit or profit-making association or corporation, or other person or group of persons who maintain, operate, manage, own, or has custody of, or otherwise possess the right to rent or lease overnights accommodations in a hotel to the public for consideration.

7. Patron. A person who pays the consideration for the occupancy of a room or rooms in a hotel.

8. Permanent Resident. A person who has occupied or has the right to occupy of a room in a hotel as a patron or otherwise for a period exceeding thirty consecutive days.

9. Room. A space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodation in a room or group of rooms.

10. Temporary. A period of time not exceeding thirty consecutive days.

11. Transaction. The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration is payable to the operator under an express or an implied contract.

12. Transient. An individual who obtains accommodation in a hotel by means of registering at the facility for the temporary occupancy of a room for the personal use of the individual by paying a fee to the operator.

SECTION IV - IMPOSITION, RATE AND PURPOSE OF TAX

Effective October 1, 2012, there is hereby imposed a tax of five percent (5%) on the consideration received by each operator of a hotel within the County, from each transaction of renting a room or rooms to accommodate transients.

SECTION V - COLLECTION, PAYMENT, REPORTS AND RETURNS OF TAX

1. The operator shall collect the tax imposed by this Ordinance from the patron of the room and pay it to the County as provided hereinafter. The operator shall be liable to the County as agent thereof solely for the purpose of collection and payment of the tax to the County Treasurer as provided in this section.

2. Every operator shall transmit to the County Treasurer, on or before the twentieth (20th) day of each month, a return which shall contain the operator's activity for the previous month for which the return is made, the amount of consideration received for the transactions during the month for which the return is made, the amount of tax collected by the operator during that month, and such other information as the County Treasurer may require. The operator shall also compute and pay to the County Treasurer the taxes collected by the operator for that period and due to the County, which payment shall accompany the monthly return.

3. For purposes of timely payment determination, a payment will be considered paid by the twentieth (20th) of the month when either: (a) a mailed return and payment bears a postmark date of the twentieth (20th) or earlier of that month; or (b) the return and payment are made in person at the Adams County Treasurer's Office during normal business hours of 8:00 a.m. until 4:30 p.m. (as may be modified), by the close of business on the twentieth (20th) of that month. Where the twentieth (20th) falls on a weekend or legal holiday, payment will be considered timely if the letter is postmarked with the next business day's date, or payment is made at the County Treasurer's Office on the next regular business day.

4. The County Treasurer is hereby directed to collect the tax from the operator and to deposit the revenues received therefrom in a special account established solely for the purpose of this Ordinance, and Act 142 of 2012. The County Treasurer shall

distribute seventy-five percent (75%) of the net tax revenues to the recognized TPA by or on the fifth (5th) business day of the following month. This distribution shall be the full amount collected in the monthly period, less four and one-half percent (4.5%) of the gross for the administration fee. The remainder of the tax revenues, after removal of the administration fee, shall be distributed so that the TPA receives seventy-five percent (75%) and the County retains twenty-five percent (25%). The County shall compute the total taxes as of the end of the fiscal year to determine the appropriate annual administrative fee for the gross taxes collected. The County shall report to the TPA within ninety (90) days of the end of the fiscal year the result of the end of year review, including total hotel revenues, total hotel tax collected, and administrative fees paid to the County. The report shall be accompanied by payment for any administrative fee overpayment, if such exists.

5. The Commissioners are hereby authorized to establish rules and regulations concerning the collection of the tax. A copy of the initial rules and regulations are attached hereto as Exhibit "A." The Commissioners may modify these rules through action at any advertised public meeting.

6. Every report and return required in compliance with the Ordinance concerning the payment and collection of the tax shall be made upon a Remittance Form furnished by the County Treasurer's Office, a copy of which is approved as part of the initial rules and regulations and included in Exhibit "A."

7. Every operator shall maintain records, which shall be made available to the Commissioners and/or the County Treasurer and/or duly authorized agents ("County Representative") upon request. Such records shall be reviewed annually by a County Representative, and shall include, but not limited to, the number of transactions in each hotel reflected on an hourly, daily, or weekly basis, the rate(s) charged for each occupancy, the consideration received from all transactions during the month for which each return is made, as well as such other information as the Commissioners may require.

SECTION VI - USE OF REVENUES

The County and the recognized TPA of Adams County, the Gettysburg Convention and Visitors Bureau, shall use the proceeds from this tax in accordance with Act 142 of 2000, as amended by Act 142 of 2012, and as provided for by the Memorandum of Agreement, attached hereto as Exhibit "A."

SECTION VII - ADMINISTRATIVE FEE

An administrative fee set at the lesser of four and one half percent (4.5%) of annual receipts or \$95,000.00 shall be retained by the County for the purpose of recouping administrative costs which will be incurred in the accounting, managing, and auditing of the Hotel Tax. This fee shall be subject to an annual review, which shall ensure compliance with limitations contained in Act 142 of 2000, as amended by Act 142 of 2012, codified at 16 P.S. §1770.7.

SECTION VIII - PENALTIES

Any person violating any of the provisions of this Ordinance may be subject to the following penalties:

1. Upon conviction in a summary proceeding, a fine not in excess of One Hundred Dollars (\$100.00) to be paid to the use of the County, along with all costs of prosecution.

2. Each violation shall constitute a separate offense subject to the penalties outlined above.

3. There shall be imposed a one and one-half percent (1.5%) per month penalty and interest for late taxes.

SECTION IX - REPEAL

Ordinance No. 3 of 2001 is repealed, effective midnight, September 30, 2012. All resolutions or ordinances or parts of resolutions or ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION X - SEVERABILITY

If any section, clause, phrase, portion or provision of this Ordinance is for any reason determined by a court of competent jurisdiction to be invalid, such holding shall not affect the validity of the remaining portion of the Ordinance.

SECTION XI - EFFECTIVE DATE

This Ordinance shall be effective October 1, 2012, at 12:01 a.m., and shall remain in effect until the expiration of the appropriate enabling legislation, or amendment thereof, or by appropriate action of the Commissioners.

DULY ENACTED AND ORDAINED, in a public meeting duly convened, this 5th day of September 2012.

ATTEST

ADAMS COUNTY COMMISSIONERS

_____/s/
Paula V. Neiman, Chief Clerk

_____/s/
Randy L. Phiel, Chairman

_____/s/
James E. Martin, Vice-Chairman

_____/s/
Marty Karsteter Qually, Commissioners

Chairman Phiel provided an overview of the steps taken to come to the decision on the Pillow Tax Ordinance. The new Ordinance is similar to the one that has been in effect, however, the rental rate will increase to 5%. This Ordinance has been advertised in the local newspaper. He also noted that once this Ordinance is adopted, per County Code, substantial changes are allowed. The Board will also be adopting regulations but they are not part of the Ordinance. Chairman Phiel thanked Senator Alloway, Representative Moul and Representative Tallman for their good work in support of this change.

Commissioner Qually noted the County needs to find ways to offset the costs for local municipalities. Commissioner Martin concurred with both Chairman Phiel and Commissioner Qually.

Motion carried.

Planning:

With recommendation from Nick Colonna, Director, to approve the following:

- Mr. Qually moved, seconded by Mr. Martin to approve and authorize the release of a Request for Proposal (RFP), pending review by the Solicitor for an Adams County Economic Development Study/Countywide Economic Overview Report. The deadline for receipt of the RFP is Friday, October 5, 2012.

Motion carried.

- Mr. Martin moved, seconded by Mr. Qually to approve the Agreement between the County of Adams and John & Diane Donmoyer, Jr. and Karl R. Valley, Certified Public Pesticide Applicator for the clearance of fruit trees, and to authorize an additional agreement for contracting with an excavation company for tree removal pending review by Solicitor John Hartzell.

Motion carried.

Emergency Services - Hazardous Materials:

With recommendation from Kimberly Frank, HazMat Coordinator, Mr. Martin moved, seconded by Mr. Qually to approve and sign the Hazardous Material Response Fund Grant Agreement between the County of Adams and Pennsylvania Emergency Management Agency for fiscal years 2012-2013 in the amount of \$18,296.00.

Motion carried.

Children & Youth Services:

With recommendation from Sherri DePasqua, Interim Director, Mr. Qually moved, seconded by Mr. Martin to approve Purchase of Service Agreements with the following:

2012-2013

Per Diem

Franklin Family Services	See Contract
Lancaster County Youth Intervention Center	See Contract
Paula Shoemaker – In-Home Services	See Contract

2011-2012 Amendments to extend until 2012-13 are finalized:

Children’s Aid Society	See Contract
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- Letter of Agreement between the County of Adams, Adams County Children & Youth Services and Sara Strayer, Technical Consultant, for services during the compliance procedure with the Department of Public Welfare, effective August 30, 2012 through November 1, 2012.

Motion carried.

Chairman Phiel thanked Ms. DePasqua for her work during the interim period of administrator.

Personnel Report:

Mr. Qually moved, seconded by Mr. Martin to approve the following:

MIS:

Recommendation from Albert Penksa, County Manager to approve the employment of Phillip Walter, MIS Technician II/Application Specialist, effective September 10, 2012.

Victim Witness:

Recommendation from Cindy Keeney, Director, to approve the employment of Samantha Hoffman, PT Direct Service Advocate, grant funded, effective September 4, 2012.

Children & Youth Services:

Recommendation from Michele Miller, HR Director, to approve the employment of Sue Cohick to the Administrator III position, effective September 10, 2012. Chairman Phiel noted Ms. Cohick brings a wealth of practical and administrative experience to our County. On behalf of the Board of Commissioners he welcomed and wished her well.

Voter Registration:

Approve Nancy Stimer and Patsy DeHaas, Floaters, to work in the Voter Registration office effective September 24, 2012 through November 14, 2012 for the upcoming Presidential Election.

Probation Services:

Recommendation from Neil Burkholder, Executive Director, to approve the employment of the following Probation Officer I effective August 27, 2012:

- Matthew Livelsberger
- Nathaniel Owens
- John DiSalvo

Commissioners:

Note the completion of the Paid Internship for William McClain effective August 17, 2012.

Security:

Recommendation from Michael Baltzley, Director, to approve the transfer of Richard Esenwine from Security Officer to Lead Security Officer, effective August 27, 2012.

Clerk of Courts:

Recommendation from Clerk of Courts Kelly Lawver to approve the status change for Melissa Temple, Courtroom Information Specialist, effective August 27, 2012.

Sheriff:

Note the Unpaid Leave of Absence for Steven Jones, Deputy Sheriff, effective August 29, 30 and 31, 2012.

Adams County Correctional Complex:

Recommendation from Warden Brian Clark to approve the following:

- Rescind the employment of Andre Grant, Correctional Officer, effective August 8, 2012
- Employment of Dale Nichols, Correction Officer, effective September 17, 2012 pending final approval from Prison Board.

Separation of Employment:

- Sabrina Warrenfeltz, Program Specialist Foster Care, effective August 24, 2012
- Anthony Brown, Jr., Correctional Officer, effective August 21, 2012

Motion carried.

Expenditures:

Mr. Martin moved, seconded by Mr. Qually to approve the following expenditures for the period August 20, 2012 through August 31, 2012:

General Fund	\$ 2,259,745.21
911 Fund	\$ 83,061.03
Domestic Relations	\$ 624.08
Children & Youth Services	\$ 280,860.98
Liquid Fuels	\$ 26,341.15
HSDF	\$ 12,805.00
CDBG	\$ 13,316.65
Law Enforcement	\$ 10.59
Emergency Shelter	\$ 13,097.98

Motion carried.

Other Business:

- Chairman Phiel congratulated Paula Neiman on 40 years of service to the County of Adams. He recognized her knowledge and loyalty to the County as well as her ability to keep the County running smoothly. Best wishes were conveyed to Paula for continued happiness and good fortune.
- Tax Appeal – Inland Container Corp., Biglerville Borough, 2011 Appeal – Daryl Crum, Tax Services Director noted this appeal includes two (2) parcels, combined totally 47.76 acres and approximately 265,000 sq. ft. of buildings. The Fair Market Value of all parcels was \$5,742,000. Inland Container presented an appraisal with a value of \$1,850,000. After several contacts by both parties, an agreement to settle this

appeal was decided at a proposed value of \$3,400,000 for both 2011 and 2012 taxes and beyond.

With recommendation from Daryl Crum, Tax Services Director and Solicitor John Hartzell, the Board of Commissioners, sitting as the Board of Assessment Appeals, Mr. Qually moved, seconded by Mr. Martin to approve the Fair Market Value of \$3,400,000 for both 2011 and 2012 taxes and beyond.

Motion carried.

- Tax Appeal Process – Mr. Crum noted the first phase of notices was sent to individual property owners stating their scheduled time and place of their appeal hearing. Included with this was a 2-sided information sheet outlining excerpts from the County of Adams Rules and Regulations of the Board of Assessment Appeals which were adopted by the Commissioners on August 22, 2012. This included an excerpt from Rule B-3 which describes the method of arriving at the 2010 base year assessment by determining today's fair market value, then applying the common level ratio to that value.

Salary Board Meeting:

The Salary Board Meeting will be held following the Commissioners Meeting.

Adjournment:

Mr. Martin moved, seconded by Mr. Qually to adjourn the Commissioners Meeting at 10:10 a.m. this date.

Motion carried.

Respectfully submitted,

Paula V. Neiman
Chief Clerk