

## **MEETING OF THE LOCAL GOVERNMENT COMMISSION**

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**Wednesday, October 16, 2013**

The meeting of the Local Government Commission was called to order by Senator John Eichelberger, Jr., at 8:45 a.m. in Room 14 East Wing-Main Capitol Building, Harrisburg, Pennsylvania, with the following individuals present:

### **MEMBERS**

**Senator John H. Eichelberger, Jr., Chairman**  
**Senator Robert D. Robbins**  
**Senator Edwin B. Erickson**  
**Senator John N. Wozniak**  
**Representative Chris Ross**  
**Representative Mauree Gingrich**  
**Representative Kate Harper**  
**Representative Robert L. Freeman**  
**Representative Mary Jo Daley**

### **STAFF**

**Michael P. Gasbarre, Executive Director**  
**Philip H. Klotz, Assistant Director**  
**David A. Greene, Legal Counsel**  
**Kristopher Gazsi, Associate Legal Counsel**  
**Karen S. Bear, Secretary**

### **GUESTS**

**Lee Derr, Senator Eichelberger's Office**  
**Mike Hengst, Senator Robbins' Office**  
**Luc Miron, Senator Blake's Office**  
**Kyle Mullins, Senator Blake's Office**  
**John Fulton, Representative Freeman's Office**  
**Brianna Medevich, Representative Freeman's Office**  
**Wanda Snader, House Republican Research Office**  
**Rob Gaertner, House Republican Research Office**  
**Fred Reddig, Dept. of Community & Economic Dev.**  
**Jonathan Hendrickson, Dept. of Community & Economic Dev.**  
**Dave Black, Capital Region Economic Dev. Corporation**  
**Joe Krilokowski of McKenna, Long, and Aldridge of Atlanta**  
**Ron Grutza, PA State Association of Boroughs**  
**Ed Troxell, PA State Association of Boroughs**  
**Amy Sturges, PA Municipal League**  
**Karey Molnar, PA Municipal League**  
**Joe Regan, Fraternal Order of Police**  
**Drake Nakaishi of the Nakaishi Group**  
**Emily Previti, *The Patriot News***

As the first order of business, the Members discussed the minutes of the September 25, 2013, business meeting, which were unanimously approved on a motion by Senator Erickson and a second by Representative Ross. The financial report for the month of September 2013 was presented, and a detailed explanation was given by the Executive Director. The financial report was unanimously approved on a motion by Representative Ross and a second by Representative Gingrich.

The Members reviewed the minutes of the September 26, 2013, quarterly meeting with the local government associations. At that meeting, Terry Adamik, representing the County Treasurers' Association of the Commonwealth of Pennsylvania, stated that there are a plethora of bills introduced this legislative session dealing with varying aspects of small games of chance. Ms. Adamik questioned the possibility of conducting a hearing on small games of chance that would give many, particularly small nonprofit entities and county treasurers, an opportunity to articulate their concerns and difficulties in dealing with this issue. Ms. Adamik was counseled to contact Commission Member Representative Mauree Gingrich, who was recently appointed as Chair of the House Gaming and

**Oversight Committee. The minutes were unanimously approved on a motion by Senator Robbins and a second by Representative Daley.**

**The Members discussed the Commission budget requests for Fiscal Year (FY) 2014-2015. The Director noted that the aggregate Commission FY 2014-2015 budget request was about the same as the current fiscal year appropriation, bringing the total budget request amount for FY 2014-2015 to \$1,074,000.00. The Members unanimously agreed to the proposed FY 2014-2015 Commission budget request on a motion by Senator Erickson and a second by Representative Ross. The Director emphasized, however, that \$153,332 of the \$169,301 FY 2012-2013 carryover would need to be maintained for accrued leave liability purposes.**

**The Chairman then requested a motion to approve the Commission code account request for FY 2014-2015 in the amount of \$20,000.00. The Members unanimously agreed to the proposed FY 2014-2015 code account request on a motion by Representative Ross, which was seconded by Senator Robbins.**

**On October 3, 2013, the Commission received copies of two proposed Agreements involving the City of Harrisburg: one between the City and the Pennsylvania Economic Development Financing Authority (PEDFA) for the operation of on-street parking in exchange for direct or indirect upfront payments to the City and ongoing payments during the term of the franchise, and another between the City and the Pennsylvania Department of General Services (DGS), which delegates the City's power to enforce parking regulations within a portion of the City for the collective benefit of city residents and visitors. These Agreements were received along with a request that the Local Government Commission review and comment on the documents in accordance with Title 53 of Pa.C.S., Section 2314. This provision requires the Commission to review "every agreement between a local government and the Commonwealth, any other state, government of another state or the Federal Government." In accordance with the requirements of Title 53 of Pa.C.S., Section 2314, the Commission is charged with undertaking a "review" of the Agreement and, within 90 days of receiving it, determining whether it is in proper form and compatible with the laws of the Commonwealth. The Commission also has the authority to make a "recommendation."**

**Prior to review of the agreements, the Director noted that AEW Capital Management had withdrawn its participation as asset manager. After receiving assurances from the Receiver's office that the agreements would not be materially altered, the Director agreed to proceed with the Commission's review pursuant to law.**

**The Commission's review of Agreement 1 between the City and PEDFA revealed that no justification to conclude that the delegation of the regulation of on-street parking operations to PEDFA, along with a grant of public access, is inconsistent with Pennsylvania municipal law. Commission Legal Counsel Dave Greene emphasized that this conclusion is restricted to the scope of the Commission's review as described in its correspondence. However, the correspondence notes that there is a significant amount of legal and administrative activity that is incident to the execution of Agreement 1, including the participation and coordination of several subordinate agency relationships, personnel issues, and financial transactions that are the subject of agreements beyond the scope of the review. To the extent not already examined, these matters warrant careful legal review by the consultants of the City and PEDFA prior to the enactment of an implementing ordinance in order to ensure the long-term viability of the Agreement.**

**The Commission's review of Agreement 2 between the City and DGS showed that the power to enforce on-street parking regulations is within the scope of Commonwealth police power delegated to the City. Consequently, that delegation of power appears to be a proper subject of intergovernmental cooperation and consistent with municipal law. However, as discussed, the administrative and procedural details necessary for that enforcement must be reconciled with existing law that is, or may be, beyond modification through the Intergovernmental Cooperation Agreement.**

**The Members of the Commission unanimously agreed on a motion by Senator Erickson and a second by Representative Gingrich to authorize Commission staff**

to send correspondence detailing the Commission's comments to Mr. Fred Reddig, Administrator for the Office of Receiver for the City of Harrisburg, on October 16, 2013.

A draft of the 2013 Act 47 of 1987 Municipalities Financial Recovery Act Task Force Report was given to the Members for their final examination. Copies of the draft report were sent to all Commission Members, Task Force Members, and pertinent legislative committee staff for final editing prior to the meeting. It was noted by the Director that an additional page is inserted in each draft report. It was suggested by Jason Brehouse, Executive Director of the Senate Community, Economic and Recreational Development Committee (R), that additional background information be provided in the report regarding the outcomes of the two bicameral, nonpartisan joint hearings held in 2011 on Act 47. The additional information will be incorporated in the first chapter of the report.

At the conclusion of the report review, the Members unanimously authorized on a motion by Senator Robbins and a second by Senator Erickson the release of the Act 47 of 1987 Municipalities Financial Recovery Act Task Force Report for public viewing. Commission Members were advised that copies of the report will only be available on the Commission's website, which is [www.lgc.state.pa.us](http://www.lgc.state.pa.us).

As the last order of business, the Members unanimously approved to move the Wednesday, November 20, 2013, business meeting to Wednesday, November 13, 2013. The meeting will convene at 8:45 a.m. in Room 14 East Wing-Main Capitol Building. The November 20, 2013, date may conflict with festivities planned in Gettysburg to commemorate the 150<sup>th</sup> anniversary of the Gettysburg Address.

The meeting adjourned at 9:20 a.m.

ATTESTED: \_\_\_\_\_  
October 21, 2013