

COLLEGE TOWNSHIP COUNCIL
PUBLIC HEARING
MONDAY, FEBRUARY 7, 1983

A Public Hearing for the consideration of three Act 511 Tax Ordinances (a Mercantile License Tax, an Amusement Devices Tax, and a Cable Television Franchise Ordinance) was called to order at 7:30 pm by Chairman Dargitz at the College Township Municipal Building.

Members Present: Donald E. Bailey; Gale L. Dargitz, Chairman; J. Carroll Dean; Herbert W. Stewart; Dolores A. Taricani

Others Present: C. Thomas Lechner, Manager
Reed McCormick, Solicitor

Chairman Dargitz stated that although a Public Hearing on the proposed tax ordinances is not legally required by State regulations, it was decided by Council to hold such a hearing in order to give the public the full opportunity to disclose its views and opinions of the various taxes to the Council members. Testimony would be informal in nature, and the taking of an oath unnecessary. Action on these ordinances may or may not be taken that night, depending upon developments and the desires of Council.

Dargitz reviewed the background leading to Council's consideration of these taxes. College Township, like many other municipalities, has been going through a "revenue squeeze" for the past few years, most had not been raised for many years, and expenditures, including many unexpected expenses, such as the traffic signals at Struble Road and at S. Atherton Street and Branch Road, have been mounting. In order to meet the already reduced Township Budget for 1983, Council was forced to raise the Real Estate millage by three mills to a total of nine mills. Despite this increase, a number of important projects had to be eliminated from the Township's budget.

In anticipation of this shortfall of funds, Dargitz said, Council has been examining alternate sources of revenue -- i.e., taxes -- for well over a year. Those taxes now imposed by the Township include the aforementioned Real Estate Tax (netting this year between \$125,000 and \$140,000) and the Earned Income Tax (netting approximately \$200,000) which can not legally be increased. Although the imposition of further taxation is distasteful, the Township's weakening financial position has forced Council to ask the Manager and the Solicitor to draft three ordinances for the following Act 511 Taxes which are permissible under the Township code:

1. An Amusement Devices Tax Ordinance -- proposed at \$50 per machine per year for all entertainment and amusement devices. (Expected annual revenue: \$3500)

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2. A Cable Television Franchise Ordinance -- proposed at 3% of the Cable Company's revenues generated from College Township customers. (Expected annual revenue to the Township: \$4740)
3. A Mercantile License Tax Ordinance -- proposed at .75 mills on retail sales; .50 mills on wholesale sales. Dargitz emphasized that this tax would be imposed only on goods, not services; and, for each \$1000 of retail sales, a tax of only \$.75 would be due. The first \$40,000 of sales would be exempt from the tax. (Expected annual revenue to the Township: \$40,000 - \$50,000)

As the proposed Ordinances had been advertised three times and available for inspection at the Township office (copies were also available that evening), Dargitz did not go into further detail and instead asked for public comment.

Jerry Clinefelter, of Clinefelter's Carpets, and Bill Peacock, of The Motorcycle Place, stated that the Mercantile License Tax would add to the merchants' bookkeeping expenses. Jeffrey Herman, of the Lemont House, agreed and inquired of Council how the businessman was expected to separate his sales from his services income. Solicitor McCormick replied that much of this information had to be gathered to comply with State and Federal tax forms, and that it would be up to the individual merchant to make a fair determination.

Ray Watson, of Big A Art Barns, noted the possibility that many goods would be taxed twice -- once, when they are sold at wholesale and again as they are sold at retail. McCormick acknowledged this double taxation but stated that it is legal. To Watson's second question as to why services income was also not being taxed, Dargitz responded that under the Act 511 program, the Mercantile License Tax covers only wholesale and retail goods. The Township does not have the freedom, Dargitz added, to tax whatever it might wish.

Solicitor McCormick noted that the real issue at hand is the Township's need for additional revenue. In an attempt to devise an equitable tax provision that would not hit any one source too hard, McCormick was asked, along with the Manager, to draft those alternate tax ordinances proposed that night. Many other municipalities throughout the State have already imposed such taxes, he said, and noted the absence that evening of those larger retailers who have probably been exposed to the mercantile tax elsewhere. Furthermore, McCormick added, the Township's Real Estate Tax, despite its recent increase to nine mills, is still much lower than that of the surrounding municipalities: two of its sister townships now levy a 14 mill tax, and the Borough imposes a Real Estate Tax of 21 mills. Should the Township have to further increase its real estate millage to make up those \$50,000 the Act 511 taxes are expected to generate, the real estate millage could easily jump another four to five mills.

Bill Clark, of Clark Motors, was also opposed to the Mercantile License Tax and visually outlined his many objections to Council. Noting that the tax is based on gross sales, and not gross profit, he remarked that the tax is inherently unfair in that the profit margin among businesses varies considerably. Some businesses, such as his car dealership, have large gross sales, but relatively

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low profit; other concerns, with much smaller sales volume, may gross a far larger profit. In fact, Clark added, a merchant might even have a losing year and still be liable for the Mercantile License Tax.

McCormick agreed that this aspect of the tax is inequitable but explained that under the Pennsylvania Constitution a graduated tax is prohibited; Dargitz added that State law does not give a local government the option to tax profits.

Fellow car dealer Gene Stocker, of Stocker Chevrolet, concurred with Clark and commented that an increased Real Estate Tax would be preferable to the proposed Mercantile License Tax, as the latter "penalizes the merchants." Based upon his calculations, he added, he alone would be taxed approximately \$8000 per year under the Mercantile License Tax Ordinance, and he questioned the accuracy of the Manager's estimate of the expected funds to be generated.

The plight of the businessman in today's economy was raised by Glenn Dersham of Dersham's Sports Center (Nittany Mall). He was recently forced to close one of his two stores due to the poor financial climate, and he is not the only merchant to do so. It is not fair that only 50 or 75 people out of the entire Township are asked to bear an additional tax. Moreover, businessmen have learned to cut back on their expenditures when faced with a deficit; perhaps the Township should do the same. Dersham also noted that Nittany Mall tenants pay a Real Estate Tax in that they are assessed a proportionate amount of the Mall's total tax by the leasor, and agreed with previous merchants' statements that the tax is unfair in that it would have to be paid whether or not a profit is realized.

In response to a question from the Centre Daily Times' Don McClintock, Dargitz reiterated that the Act 511 program does not provide for the taxation of services. Under a Business Privilege Tax services could be taxed but, from a practical viewpoint, College Township contains very few businesses that deal in services alone. To another Mall person who also suggested that Real Estate Taxes be increased, Dargitz replied that Real Estate Taxes can only be set before the first of January, and these additional revenues are needed now.

George Morgan, of Danks Department Store, echoed Dersham's poor business climate sentiments, stating that Danks has had to cut back or postpone many of its projects. He suggested the Township do likewise, and reconsider for next year a further increase of the Real Estate Tax.

The problem of the collection of the tax and the costs it would entail was raised by Mike Condash, of the Tiffany Deli, and Jim Miller, of the Nittany Mall. Dargitz explained that collection would be made quarterly and that all administration of the tax would be done by the current Township personnel. Lechner estimated that collection costs would amount to approximately \$2000 per year.

In response to several innuendos that perhaps the Council was not running the Township as profitably as possible, Dean remarked that many of the comments made that night had come from people "who did not know what they are talking about," or, more precisely, had not examined the Township Budget. He noted that

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over \$50,000 worth of expenditures had been deleted from the final budget. He invited any comments on the three ordinances under consideration that night but did not welcome any comment that the Council "has not done its job."

Bob Hines, of Centre Carriers, however, continued in that same vein. After being informed by Lechner that the Township's annual payroll (excluding police services) amounts to approximately \$145,000, he asked Council when the Township had performed its latest lay-off or wage cut-back. He wondered how much time the Council had devoted to cutting back on its costs and suggested that the Council members were unaware of the prevailing weak business climate. "Businessmen just don't need any more taxes," he concluded.

Lechner responded that while he was unaware of any lay-offs, there have been no recent additions to the payroll. The Township has expanded through the years and the services the Township provides have been expanded proportionately.

Another proponent of raising the Real Estate Tax versus the imposition of a Mercantile License Tax was Marie LeBriti, of Nittany Mall's The Gathering Restaurant. She understands that taxes must be raised but believes that an increase in the former would be much less "aggravating" as it would be imposed on all residents and not just some merchants.

Reed McCormick then noted that a \$10 license fee is also a part of the Mercantile License Tax. In response to a Mall Representative's question, he replied that itinerant merchants or concessionaires would be responsible for obtaining the license and would have to fill out tax forms whether or not they would be ultimately liable for any mercantile tax. The Mall Rep commented that the aspect of filling out forms alone would tend to drive transients and promotional events away from the Mall.

The Council members next presented their views on the proposed Ordinances.

Stewart, "a businessman himself," is adamantly opposed to the Mercantile License Tax.

Taricani prefaced her remarks by agreeing with Dean's comments on the lack of Township interest in the establishment of the 1983 Budget. Had any of the merchants present at the Public Hearing that night attended Council's budget meetings, they would have realized that the Township's budget was cut "to bare bones." The Council members are wholly cognizant of the lagging business situation -- they, too, are exposed to the "real world" -- and are, indeed, "a bunch of fiscal conservatives." There is no heavy bureaucracy in the administration of College Township. The Township is being run as efficiently as possible, she said; in fact, several years ago the Township was told by the Department of Community Affairs that they could not believe the Township's administrative costs were so low.

The biggest problem facing College Township, Taricani stated, is the future economic stability of the area. "Local government, if it is to survive, has to have some financial base on which to thrive."

Taricani is not an advocate of the Mercantile License Tax. She noted, however, that commercial and industrial establishments are the heaviest users of Township services, especially police services -- hence Council's consideration of a tax on businesses.

If the Township is to enact a tax on businesses, she is of the opinion that it should be a Business Privilege Tax. This tax can either be a graduated tax or a flat tax on all businesses and services, excluding manufacturing -- a more equitable way of spreading the tax burden.

Taricani concluded her remarks by agreeing with the merchants that the economy is bad while admonishing them not to "sell this Council short." The members are thoughtful and considerate people "and they do know what's going on."

Bailey stated that he is in favor of the adoption of the Mercantile License Tax. Many non-residents avail themselves of the Township's shopping opportunities and services (roads, police, traffic signals) without paying anything towards the support of these services. A Mercantile License Tax is justified, Bailey said, so that the users of Township services will share in the expenses.

Bailey further commented that the Mercantile License Tax is not really a tax on business -- "the business always passes the tax along to the customer. It is always the individual customer who pays in the end." As such, Bailey believes the Mercantile License Tax to be equitable.

Dean is of the opinion that there are certain injustices in the Mercantile License Tax. He does agree with Bailey, however, that those non-residents who enjoy the benefits of the Township's services should help defray the costs of those services. Dean favors, therefore, a broad-based tax on businesses over an increased Real Estate Tax which would fall back on "the same old patsies." He suggested that Council further examine the possibilities of the Business Privilege Tax.

Dargitz emphasized that the Council is not anti-business -- "some of us are in business ourselves" -- but is in agreement that such places as the Nittany Mall and the Hills Shopping Center attract shoppers from all over the area. A tax on businesses would serve to broaden the Township's tax base, rather than to restrict it to the same property owners over and over again. Mercantile License Taxes are imposed by over 100 municipalities throughout the State, he added, and remarked that the absence of the larger retailers that night demonstrates their lack of protest -- "they're used to paying it."

Taricani noted the escalating costs of the police contract, and stated that the time might come when the businessman would have to make do with a reduced level of services. She reiterated her previous comments that commercial and industrial concerns are the heaviest users of police services; Bailey added that businesses also account for the greater number of fire alarms; and Dargitz said that traffic emanating from businesses requires increased traffic signalization as well as causes wear and tear on the Township roads.

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Chris Exarchos did not dispute that businesses may be heavy users of Township services, but commented that a Mercantile License Tax was not the way to make up for these costs. He reminded the Council that many of the merchants are Township property owners and are subject to the Township's Real Estate Tax.

Jeffrey Herman and Glenn Dersham challenged Bailey's allegation that the Mercantile License Tax would be passed from the merchant to the consumer. They asserted that this would not be so as the increased retail cost would make them non-competitive. Dargitz replied that the Township merchant is in a very competitive situation as the Township's Real Estate Tax is among the lowest in the

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The Barrel of Fun -- making it appear, in actuality if not theory, that the tax is aimed at that one concern alone. The tax also presents a managerial problem in that the machines would have to be continually inventoried. Dean is less enthusiastic about this tax than he is about the Mercantile License Tax.

McCormick noted that Council was actually considering three separate Ordinances, although they were all being discussed that night. He added that the Council's figures on the amount these taxes are expected to generate are estimates only; the actual figure could come out to be significantly higher.

Lechner concurred, and said that the tax could always be amended downward should the revenues exceed the Township's expectations.

Glenn Dersham then asked whether the merchants' sales records would remain confidential, and was told they would. Taricani noted that a provision now appearing in the Mercantile License Tax Ordinance -- Section 7, Mercantile License Tax Returns -- requiring the taxpayer to supplement his return with a copy of his Pennsylvania Sales Tax Return or Federal Income Tax Return must be deleted, as the latter requirement is illegal.

Dargitz said that Council would take no action that night, but would consider the three ordinances at the next Council meeting on Thursday, February 10, 1983. A motion was then made by Dean and seconded by Bailey that the Public Hearing be adjourned. The motion was carried unanimously and the meeting adjourned at 9:16 pm.

Respectfull submitted,

C. Thomas Lechner
Secretary

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