

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

FIREARM OWNERS AGAINST	:	
CRIME, KIM STOLFER, JOSHUA	:	
FIRST, and HOWARD BULLOCK,	:	
	:	29 MAP 2020
<i>Appellees,</i>	:	
	:	
v.	:	
	:	
CITY OF HARRISBURG, MAYOR	:	
ERIC PAPERFUSE, and POLICE	:	
CHIEF THOMAS CARTER,	:	
	:	
<i>Appellants.</i>	:	

Appeal from the Order of the Commonwealth Court dated September 12, 2019, reconsideration denied October 23, 2019, at No. 1434 CD 2018 Affirming in Part & Reversing in part the Order of the Dauphin County Court of Common Pleas, Civil Division, dated October 9, 2018 at No. 2015-CV-354.

**BRIEF OF *AMICUS CURIAE*, THE REPUBLICAN CAUCUS OF THE
PENNSYLVANIA HOUSE OF REPRESENTATIVES, IN SUPPORT OF
APPELLEES FIREARM OWNERS AGAINST CRIME, KIM STOLFER,
JOSHUA FIRST, and HOWARD BULLOCK**

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STATEMENT OF INTEREST OF *AMICUS CURIAE*

Amicus Curiae, the Republican Caucus of the Pennsylvania House of Representatives (“House Republican Caucus”), files this brief in support of Appellees Firearm Owners Against Crime, Kim Stolfer, Joshua First, and Howard Bullock.¹

This appeal addresses the question of whether firearm owners, and an association to which they belong, have standing to challenge municipal ordinances regulating the “lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.” 18 Pa.C.S. § 6120.

The underlying litigation involves the interpretation and application of Pennsylvania constitutional and statutory provisions concerning the right to bear arms as well as statewide laws which comprehensively address the criminal misuse of firearms. The interest of the House Republican Caucus in this case arises from the role of the General Assembly as the appropriate conduit through which the People of Pennsylvania both enact and amend their statutory law as well as amend their Constitution.

¹ No one other than *Amicus Curiae*, its members, or its counsel paid in whole or in part for the preparation of this brief or authored in whole or in part this brief.

An unjustifiably restrictive application of Pennsylvania’s traditional standing doctrine has, to date, effectively encouraged the proliferation of illegal ordinances intended to compel adherence through the threat of enforcement by municipal governments across the Commonwealth. A more appropriate standing analysis – one befitting of instances in which a constitutionally protected activity is involved – would compel the special interest groups that have championed this lawless behavior to bring their proposals to the appropriate forum for deliberation. That forum is the General Assembly of Pennsylvania.

Amicus Curiae has a significant interest in ensuring that appropriate consideration of the People’s right to work through the General Assembly to achieve democratic consensus on issues of constitutional significance, recent legislation addressing the criminal misuse of firearms, and the reduction in gun crimes in the wake of that legislation, is brought to bear in this Court’s analysis.

SUMMARY OF ARGUMENT

Pennsylvania firearm law, built on the bedrock guarantee of the Pennsylvania Constitution, preempts the City’s ordinances. Both through express statutory language and through the extensive regulation of firearms at the statewide level, the Commonwealth has expressed its intention to impose a single, full, uniform set of firearm laws in Pennsylvania.

At the urging of a handful of special interest groups, the Appellants have chosen to: enact municipal firearm ordinances in violation of state law and the Pennsylvania Constitution; threaten citizens of the Commonwealth with enforcement of these illegal ordinances; and, attempt to secrete their misconduct by denying these same citizens their right to redress under Article I, Section 11 of the Pennsylvania Constitution.² Effectively, the Appellants argue, “We haven’t *actually* cited you, so, no harm done.” Yet, the *threat* of bringing the full weight of the government to bear for failure to comply with an illegal ordinance cannot go unanswered. The Commonwealth Court unanimously recognized the Hobson’s Choice being foisted upon the Appellees. So too should this Court.

To the extent that the Appellants may wish to change this body of law, their constitutional and statutory remedy is to approach the General Assembly to effectuate change via legislative enactment, not municipal ordinance. The urging by special interest groups, some of which are *amici* here, that these illegal ordinances must be allowed to stand because they are unable to exert their will in the General Assembly belies the very nature of representative democracy and the legislative process enshrined in Pennsylvania’s Constitution.

² “All courts shall be open; and every man for an injury done him . . . shall have remedy by due course of law, and right and justice administered without . . . delay.” Pa. Const. art. I, § 11.

In reality, the statewide regulation of firearms – like most areas of the law – continues to evolve over time. Recent history illustrates this, as the Pennsylvania legislature has passed a number of bills, subsequently signed into law, that provided additional tools to address gun violence. Appellants and *amici*, however, seem to prefer avoiding the hard work of building consensus inherent in the legislative process.

Rather than an explosion of violence, the facts show that from 2006 to 2019, violent firearm offenses tracked by the Pennsylvania State Police have experienced a 45% reduction. On a more local scale, the City of Harrisburg itself has also seen a substantial reduction in violent crimes over this same period.

For these reasons, the order of the Commonwealth Court should be affirmed and this action should be allowed to proceed on the merits.

ARGUMENT

The founder of our Commonwealth once recognized, ‘to delay Justice is Injustice.’ William Penn, *Some Fruits of Solitude* 86 (Headley Bros. 1905) (1693). In modern parlance, and “[a]s courts are fond of repeating, ‘**justice delayed is justice denied.**’” *Muhammad v. Strassburger*, 587 A.2d 1346 (Pa. 1991) (citation omitted) (emphasis in original).

Yet, the tactic of *delay as a means of denial* is precisely the nature of the appeal before this Court.

I. Standing and the Declaratory Judgments Act

The Commonwealth Court correctly recognized that a rigid application of traditional standing analysis was improper given that Appellees would otherwise “have no real alternative avenue to address their grievance.” *Firearm Owners Against Crime v. City of Harrisburg*, 218 A.3d 497, 513 (Pa. Cmwlth. 2019), *reh'g denied* (Oct. 23, 2019), *appeal granted in part sub nom. Firearm Owners Against Crime v. Papenfuse*, 724 MAL 2019, 2020 WL 2029303 (Pa. Apr. 28, 2020). Judge Brobson, writing for the court, described the Hobson’s Choice faced by the Appellees:

They can curb their conduct to conform to the ordinances' mandates or they can willfully violate the law and face criminal prosecution. Like the physician in *Robinson Township*, the law firm in *Cozen O'Connor*, the attorney in *Shaulis*, and the coal company in *Arsenal Coal*, [they] face equally unappealing options.

Id. at 513.³ The Commonwealth Court focused on the “remedial nature” of the Declaratory Judgments Act in its analysis, with its purpose to “settle and to *afford*

³ *Robinson Twp., Washington Cty. v. Commonwealth.*, 83 A.3d 901 (Pa. 2013) (A physician should not be forced to choose between violating [Act 13] confidentiality agreement and violating his legal and ethical obligations to treat a patient by accepted standards); *Cozen O'Connor v. City of Phila. Bd. of Ethics*, 13 A.3d 464 (Pa. 2011) (law firm had standing to pursue declaratory judgment to determine whether it could forgive outstanding debt owed to it by political campaign committee without violating Philadelphia campaign contribution laws); *Shaulis v. Pa. State Ethics Comm'n*, 833 A.2d 123 (Pa. 2003) (attorney had standing to pursue judicial review of advisory opinion to determine whether she was statutorily barred from publishing articles or books on Pennsylvania state taxes during first year after her retirement); *Arsenal Coal Company v. Commonwealth*, 477 A.2d 1333 (Pa. 1984) (coal company had standing to pursue action to enjoin Department of Environmental Resources from implementing certain regulations).

relief from uncertainty and insecurity with respect to rights, status, and other legal relations, *and is to be liberally construed and administered.*” *Id.* at 505. (emphasis in original).

Amici for Appellants contend that the Commonwealth Court “essentially revives” the “enhanced standing” prescribed in Act 192 of 2014. Brief of CeaseFire Pennsylvania Education Fund and Giffords Law Center to Prevent Gun Violence as *Amici Curiae* in Support of Appellants at 20-21, *Firearm Owners Against Crime v. City of Harrisburg*, 29 MAP 2020 (July 8, 2020). Notwithstanding such protestations to the contrary, the standing doctrine articulated by the Commonwealth Court is dramatically different than that which was articulated in Act 192. Under the Act, a “person adversely affected” by a municipality’s violation of 18 Pa.C.S. § 6120 included any “resident of this Commonwealth who may legally possess a firearm under Federal and State law” and “a membership organization, in which a member is a person” who is a resident of the Commonwealth and may legally possess firearms. Act of November 6, 2014 (P.L. 2921, No. 192), included at Exhibit A.

In sharp contrast, the Commonwealth Court articulated a narrower set of circumstances – in which a party’s interest must be direct, substantial, and immediate – to pursue relief under the Declaratory Judgments Act. *See Firearm Owners Against Crime*, 218 A.3d at 506-14. In so doing, the court rightly found the individual gun

owners and the association whose members are impacted have an interest in the legality of these ordinances “that surpasses the common interest of all citizens, because the Individual Plaintiffs fall within the class of individuals on whom the ordinance” imposes a burden. *Id.* at 509.

II. The Proliferation of Illegal Ordinances

Article 1, Section 21 of the Constitution of Pennsylvania provides:

The right of the citizens to bear arms in defense of themselves and the State shall not be questioned.

With this constitutional guidepost in mind, the General Assembly enacted legislation which preempts local firearm regulation both directly and indirectly. 18 Pa.C.S. § 6120. The first iteration of the municipal preemption statute was codified in the Act of October 18, 1974 (P.L. 768, No. 260).⁴ Four years after its original enactment, the Commonwealth Court in *Schneck* rebuffed the City of Philadelphia’s efforts to enact local gun ordinances. The court held that 18 Pa.C.S. § 6120 “clearly preempts local governments from regulating the lawful ownership, possession and transportation of firearms, and... [the city’s] ordinance attempts to regulate firearms in the manner indicated in the statute as prohibited.” *Schneck v. City of Philadelphia*, 383 A.2d 227, 229–30 (Pa. Cmwlth. 1978). Not to be denied, politicians in the City

⁴ This section was expanded over the course of four subsequent amendments in 1988, 1994, 1999 and 2014. The 2014 amendment to § 6120 was declared unconstitutional solely on procedural grounds in *Leach v. Commonwealth*, 141 A.3d 426 (Pa. 2016).

of Philadelphia have tilted at this particular windmill on multiple occasions since. *See Ortiz v. Commonwealth*, 681 A.2d 152 (Pa. 1996); *National Rifle Ass'n v. City of Philadelphia*, 977 A.2d 78 (Pa. Cmwlth. 2009), *appeal denied* 996 A.2d 1068 (Pa. 2010), *appeal denied* 996 A.2d 1068 (Pa. 2010), *appeal denied* 996 A.2d 1069 (Pa. 2010).

Many municipalities, including the City of Harrisburg, failed to repeal their illegal ordinances after the municipal preemption language in 18 Pa.C.S. § 6120 was initially adopted in 1974. The ordinances of more recent vintage, such as Harrisburg's "Lost/Stolen" Ordinance (adopted in 2009), were the product of the political machinations of anti-gun activists and sympathetic local politicians.

In 2009, CeaseFirePA promoted its "lost or stolen" model ordinance in municipalities throughout the Commonwealth. In a letter to the Erie City Council Members, Jana Finder, the Western PA Coordinator for CeaseFirePA, wrote:

1. Of the 8 cities that have passed lost or stolen handgun reporting (Allentown, Pottsville, Pittsburgh, Wilkinsburg, Philadelphia, Lancaster, Harrisburg and Reading), only 2 have been sued (Philly & Pittsburgh). So, it clearly is not a given that any legal action would be taken against Erie after council passes this legislation.
2. However, in the event that a lawsuit occurs, the Brady Center (currently representing Pittsburgh) has promised to represent pro bono (free of charge) any Pennsylvania municipality that passes lost or stolen handgun reporting. The Brady Center has given me the authority to convey this offer to Erie.

Minutes from meeting of Erie City Council (July 15, 2009), <https://ecode360.com/documents/ER3969/public/476413894.pdf>, included at Exhibit B. Similarly, during the discussion of the city of Lancaster's proposed "lost or stolen" ordinance, a representative of the Brady Campaign, Max Nacheman of Philadelphia, encouraged passage of the ordinance and indicated that "the Brady Campaign Against Gun Violence has offered the full service of their legal team to provide pro bono legal coverage to any city that is threatened to be served with a lawsuit regarding the lost or stolen handgun reporting ordinance." Minutes from meeting of Lancaster City Council (May 26, 2009), <https://ecode360.com/documents/LA1674/public/347327194.pdf>, included at Exhibit C.

Armed with the consent of their own conscience and free from the responsibility of using taxpayer funds to defend against legal challenges to their actions, local politicians saw no downside to adopting the local ordinances proffered by anti-gun advocates. As more of these ordinances were adopted, litigation over illegal ordinances of both old and new vintage increased.

Given this flagrant disregard for the municipal preemption statute, the General Assembly enacted Act 192 of 2014. This legislation amended 18 Pa.C.S. § 6120 to provide that a person adversely affected had standing to file a suit claiming that an ordinance, resolution, rule or practice violates the state preemption statute. If the

action resulted in a final determination in favor of the person adversely affected, they would be entitled to attorney fees, expert witness fees, court costs and compensation for loss of income.⁵

According to media reports, nearly 100 municipalities amended or repealed their local firearm regulations to comply with state law shortly after the passage of Act 192 (when they were faced with the likelihood that they would be responsible for an adversely affected person's litigation costs). Other municipalities (like Pittsburgh, Lancaster and Harrisburg) held fast and hoped that the Courts would overturn the law. Emily Previti, *Pa. gun law prompted nearly 100 municipalities to alter ordinances*, WHYY (June 26, 2015), <https://whyy.org/articles/pennsylvania-gun-law-has-prompted-nearly-100-municipalities-to-repeal-ordinances/>.

In 2016, this Court affirmed the Commonwealth Court in *Leach* and Act 192 was declared unconstitutional solely on procedural grounds. *Leach v. Commonwealth*, 141 A.3d 426 (Pa. 2016). Since 2016, and once again unconcerned with the specter of financial responsibility, at least five additional municipalities

⁵ The Giffords Law Center to Prevent Gun Violence labeled the provisions of Act 192 “extreme preemption.” Giffords Law Center to Prevent Gun Violence, *Preemption of Local Laws in Pennsylvania* (last updated Nov. 18, 2019), <https://lawcenter.giffords.org/preemption-of-local-laws-in-pennsylvania/>.

have deliberately run afoul of the preemption law and enacted similar “model” ordinances.⁶

The population in the nineteen municipalities known to have ordinances that attempt to regulate the lawful ownership, possession or use of firearms (i.e. ordinances similar to the disputed ordinances here) exceeds 2.3 million Pennsylvanians (roughly 18% of the Commonwealth’s population).⁷ It is also reasonable to assert that millions more Pennsylvanians work in, or visit, these nineteen municipalities but live elsewhere. While it’s impossible to determine a precise number of Pennsylvanians that are similarly situated to the Appellees (gun owners facing the Hobson’s Choice described by the Commonwealth Court), it is possible to estimate the number of affected *residents* in these nineteen municipalities.

A recent study from the Rand Corporation estimates that 40.7% of Pennsylvanians, or 5.1 million people, have guns in their homes. Terry L. Schell et al., *State-Level Estimates of Household Firearm Ownership* (Rand Corp. 2020),

⁶ Township of Cheltenham, Montgomery County, Ch. 143, § 143-2 (2018); Township of Haverford, Delaware County, Ch. 83, § 83-1B (2019); Borough of Jenkintown, Montgomery County, Ch. 106, § 106-2 (2016); Borough of Norristown, Montgomery County, Ch. 155, § 155-2 (2016); Township of Whitemarsh, Montgomery County, Ch. 53, § 53-5 (2016).

⁷ Using 2018 population estimates from the US Census Bureau for the following Pennsylvania municipalities: Abington Township, Bridgeville Borough, Cheltenham Township, Conshohocken Borough, East Goshen Township, Economy Borough, City of Erie, City of Harrisburg, Haverford Township, Jenkintown Borough, City of Lancaster, Leetsdale Borough, Norristown Borough, City of Philadelphia, North Lebanon Township, City of Pittsburgh, City of Pottsville, Whitemarsh Township and Wilson Borough.

[https://www.rand.org/content/dam/rand/pubs/tools/TL300/TL354/RAND_TL354.p](https://www.rand.org/content/dam/rand/pubs/tools/TL300/TL354/RAND_TL354.pdf)

[df](#). If an even distribution of gun ownership in Pennsylvania is assumed, that means 18% of the total population of Pennsylvania gun owners live in these municipalities (or conversely that 40.7% of the 2.3 million residents in these municipalities are gun owners). Therefore, the likely number of residents impacted by these illegal ordinances well exceeds 930,000 Pennsylvanians.⁸

Amicus takes no position on the substantive merits of the firearm ordinances adopted by these municipalities, only that they are unquestionably proscribed by law and the Pennsylvania Constitution. These ordinances are an *ultra vires* exercise of authority, the enforcement of which is an express threat against at least 930,000 individuals in the Commonwealth.

III. Preemption of Local Firearm Ordinances

The siren song of municipal firearm regulation has been heard, and rejected, on numerous occasions. Perhaps the most cited example is *Ortiz v. Commonwealth*, which explained:

Because the ownership of firearms is constitutionally protected, its regulation is a matter of statewide concern. The constitution does not provide that the right to bear arms shall not be questioned in any part of the commonwealth except Philadelphia and Pittsburgh, where it may be abridged at will, but that it shall not be questioned in any part of the

⁸ This calculation does not include Pennsylvania residents that work in or visit (but do not reside in) these municipalities. There also may be additional municipalities with similar illegal ordinances.

commonwealth. Thus, regulation of firearms is a matter of concern in all of Pennsylvania, not merely in Philadelphia and Pittsburgh, and the General Assembly, not city councils, is the proper forum for the imposition of such regulation.

Ortiz, 681 A.2d at 156.⁹ In short, the City cannot avoid the restrictions contained in 18 Pa.C.S. § 6120(a).¹⁰

IV. Legislation Must Come from the Legislature

Appellants are not without recourse. As explained previously, they can (and should) work through the legislative branch to achieve their preferred changes through the adoption of statewide laws. It should not go unmentioned that the Commonwealth's regulation of firearms has not been frozen in time, like some prehistoric insect trapped in amber. Over the years since 1995, when the Pennsylvania Uniform Firearms Act of 1995 (18 Pa.C.S. § 6101 *et seq.*) was originally enacted, the General Assembly has continuously refined and advanced the

⁹ For a more recent example, see *Firearm Owners Against Crime v. Lower Merion Twp.*, 151 A.3d 1172 (Pa. Cmwlth. 2016). See also *Commonwealth v. Hicks*, 208 A.3d 916, 926 n.6 (Pa.), *cert. denied sub nom. Pennsylvania v. Hicks*, 140 S. Ct. 645, 205 L. Ed. 2d 410 (2019) (“Consistent with the General Assembly's reservation of the exclusive prerogative to regulate firearms in this Commonwealth, codified at 18 Pa.C.S. § 6120, the additional requirement that an individual possess a license in order to carry a firearm openly within the City of Philadelphia is prescribed by statute, not by municipal ordinance. See 18 Pa.C.S. § 6108; see generally *Ortiz v. Commonwealth*, 545 Pa. 279, 681 A.2d 152 (1996).”).

¹⁰ “No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.” See also 53 Pa.C.S. § 2962(g) (“A municipality shall not enact any ordinance or take any other action dealing with the regulation of the transfer, ownership, transportation or possession of firearms.”).

statewide regulation of firearms in order to be responsive to the People of Pennsylvania. Rather than engage in an exhaustive recitation of every development, however, it may be useful to focus on more recent changes.

In particular, Members of the Pennsylvania House of Representatives have been responsible for a number of pieces of legislation addressing the criminal misuse of firearms while protecting the rights of law-abiding gun owners. Working from the most recent changes, this list includes the following bills which were signed into law and are in force today:

- House Bill 2060 (Act 79 of 2018), protected victims of domestic violence and ensured consistency regarding relinquishment of firearms due to a domestic violence conviction or judge’s order by: (1) providing for relinquishment within 24 hours of a post-hearing Protection from Abuse Order (PFA) or conviction; and (2) eliminating private (individual) third-party safekeepers as a relinquishment option during a PFA but expanding the list of law enforcement entities, private attorneys and businesses which can fulfill that role.
- House Bill 1496 (Act 134 of 2016), increased the criminal penalties for certain felons¹¹ in possession of a firearm.
- House Bill 898 (Act 199 of 2012) added a provision to the Uniform Firearms Act to stiffen penalties for the illegal sale or transfer of firearms.
- House Bill 40 (Act 10 of 2011), Pennsylvania’s “Castle Doctrine” law, also amended the Uniform Firearms Act by increasing the grading for theft by receiving stolen property if the property is a firearm.

¹¹ Including second and subsequent convictions as a felon illegally in possession of a gun.

- House Bill 1845 (Act 131 of 2008) enacted a series of reasonable reforms, such as programs to stop straw purchasers, increased penalties for possessing a firearm with an altered serial number, imposed stiffer penalties for lying on the federal paperwork to buy a gun, and increased penalties for false reports of a stolen gun. It also protected against unlawful seizure of firearms during an emergency and created an expedited process for individuals who fear for their lives to obtain a temporary emergency license to carry firearms.

These changes demonstrate the willingness of Pennsylvania's legislative branch to consider and enact new laws concerning firearms.

V. Violent Firearm Offenses Are Trending Lower

Legal, rather than factual, questions control the outcome of this appeal. Nevertheless, it may be of some value for the Court to know about the recent trends which demonstrate that the Commonwealth's current approach to gun crime is working.

Based on Pennsylvania State Police records, in 2006, there were 15,209 violent firearm offenses (homicide, robbery and aggravated assault involving firearms).¹² In that same year, 415,075 firearms¹³ were sold or transferred to law-abiding Pennsylvanians by or through licensed gun dealers.

¹² See Pennsylvania State Police, *2006 Pennsylvania State Police Firearms Annual Report*, 7 (2006), available at [https://www.psp.pa.gov/firearms-information/Firearms%20Annual%20report/Pennsylvania State Police 2006 Firearms Annual Report.pdf](https://www.psp.pa.gov/firearms-information/Firearms%20Annual%20report/Pennsylvania%20State%20Police%202006%20Firearms%20Annual%20Report.pdf). Homicide, robbery and aggravated assault are the three crimes tracked in the *Firearms Annual Reports*, and the figures included are the aggregate totals for those three crimes in which a firearm was used.

¹³ See *2006 Pennsylvania State Police Firearms Annual Report*, Appendix B.

Since then, legislative efforts to address gun violence have made a real impact. By 2019, violent firearm offenses experienced a 45% reduction, dropping to 8,302.¹⁴ Annual sales and transfers of firearms, over the same period, have essentially doubled. In 2016, the Pennsylvania Instant Check System (the background check system for firearm purchases used by gun dealers) logged the sale or transfer of 846,197 firearms by gun dealers.¹⁵ In 2019, the Pennsylvania Instant Check System logged the sale or transfer of 766,204 firearms by gun dealers.¹⁶

While the firearm murder rate has fluctuated back and forth over the years, the overall downward trend in violent firearm offenses is undeniable. These are not anomalies. The table, included at Exhibit D, demonstrates the steady drop in violent firearm offenses, as well as a corresponding increase in purchases and acquisitions of firearms by upstanding Pennsylvania sportsmen and sportswomen, over the 2006 – 2019 period.

Certainly, the violent crime rate in Harrisburg is unacceptably high. It far exceeds the violent crime rate in Pennsylvania and nationally. However, the data

¹⁴ See Pennsylvania State Police, *2019 Pennsylvania State Police Firearms Annual Report*, 6 (2019), available at https://www.psp.pa.gov/firearms-information/Firearms%20Annual%20report/Pennsylvania_State_Police_2019_Firearms_Annual_Report.pdf.

¹⁵ See Pennsylvania State Police, *2016 Pennsylvania State Police Firearms Annual Report*, Appendix C (2016), available at https://www.psp.pa.gov/firearms-information/Firearms%20Annual%20report/Pennsylvania_State_Police_2016_Firearms_Annual_Report.pdf.

¹⁶ See *2019 Pennsylvania State Police Firearms Annual Report*, Appendix C.

available in the Uniform Crime Reports (UCR) for the City of Harrisburg reveals a similar downward trend in violent crime over time. Included in the UCR definition of violent crime are the offenses of murder/homicide and nonnegligent manslaughter, rape, robbery, and aggravated assault.

The city of Harrisburg had a population of 47,514 people in 2006. With 803 incidents of violent crime, the violent crime rate was 1,690 crimes of violence per 100,000 people in 2006. In 2018, the violent crime rate in the city of Harrisburg was 1,080 per 100,000 people (a decrease of 36.1% from 2006 to 2018).¹⁷ The violent crime rate in the Harrisburg-Carlisle Metropolitan Statistical Area (MSA), which includes Cumberland, Dauphin and Perry Counties and a total population of 522,275 residents, was 338.5 per 100,000 residents in 2006.¹⁸ In 2018, the total population was 574,520 and the violent crime rate dropped to 260.0 per 100,000 (a 23.2% drop in the violent crime rate) for this same MSA.¹⁹

Clearly, Pennsylvania's statewide gun laws are working, and the ever-increasing numbers of firearms purchased by Pennsylvania's lawful gun owners who abide by these laws are not the problem.

¹⁷ Federal Bureau of Investigation, *Crime in the U.S.*, <https://ucr.fbi.gov/crime-in-the-u.s> (last visited Aug. 16, 2020).

¹⁸ *Id.* at Violent Crime, Table 6 (2006).

¹⁹ *Id.* at Violent Crime, Table 6 (2018).

VI. The Legislature Comprehensively Regulates Firearms

Pennsylvania's Uniform Firearms Act strikes the correct balance of robust firearm rights – being exercised lawfully by millions of Pennsylvanians – and reasonable statewide regulation of firearms for the public safety. The General Assembly has, for decades, maintained laws strictly penalizing the unlawful possession and use of firearms.²⁰ For example, current Pennsylvania firearms law:

- Requires, prior to the sale or transfer of firearms by a licensed dealer, an application and a criminal history/juvenile delinquency/mental health background check with the Pennsylvania State Police (18 Pa.C.S. §§ 6111, 6111.1);
- Requires licensure for those who wish to carry a concealed weapon, and limits such licensure to those at least 21 years of age who meet specific requirements and who pass an extensive background investigation by the sheriff (18 Pa.C.S. § 6109);
- Prohibits the false submission of evidence of identity in connection with firearms (18 Pa.C.S. § 6116);
- Requires that firearms be carried with a license that must be produced to a law enforcement officer upon demand (18 Pa.C.S. §§ 6106, 6122);
- Requires that dealers apply for and obtain a license to sell firearms, and that dealers maintain records of firearms sales (18 Pa.C.S. §§ 6112, 6113);
- Mandates that a child safety lock must be included with all firearms provided by a manufacturer or dealer (18 Pa.C.S. § 6142);

²⁰ It should also be noted that an additional layer of firearms regulations exists at the federal level. *See generally* 18 U.S.C. § 921, *et seq.* (federal Gun Control Act).

- Prohibits private sales or transfers of firearms except at the location of a licensed firearm dealer or sheriff's office (18 Pa.C.S. § 6111(c));
- Prohibits loaning, lending, or giving firearms to other individuals, subject to certain specific exemptions (18 Pa.C.S. § 6115);
- Prohibits the possession of certain offensive weapons, including machine guns, sawed-off shotguns and firearms adapted for concealment or silent firing (18 Pa.C.S. § 908);
- Prohibits the possession of firearms by persons convicted of certain violent, drug, and alcohol crimes, as well as by fugitives, by mentally incompetent persons, and by those subject to protection from abuse orders (18 Pa.C.S. § 6105);
- Prohibits persons under 18 from possessing or transporting firearms absent adult supervision and proscribes the sale or lease of deadly weapons, cartridges or gunpowder to a minor (18 Pa.C.S. §§ 6110.1, 6302);
- Prohibits the possession of firearms on school property (18 Pa.C.S. § 912);
- Directs local law enforcement to trace firearms found in the possession of prohibited individuals (18 Pa.C.S. § 6127);
- Prohibits the alteration of firearm serial numbers or marks of identification (18 Pa.C.S. §§ 6110.2, 6117); and
- Requires the Pennsylvania State Police to distribute firearms safety literature to all firearms dealers (18 Pa.C.S. § 6125).

State laws which regulate activity concerning firearms and ammunition extend well beyond the Uniform Firearms Act and attendant provisions in the Crimes Code. Other Commonwealth laws concerning the regulation of firearms are found


in a number of consolidated titles and unconsolidated statutes throughout the entirety of Pennsylvania law.

With this comprehensive legislative scheme, including the express preemption of local firearm ordinances, the General Assembly has occupied the entire field of firearm regulation in Pennsylvania. If Appellants desire more or different regulation, they should engage in the legislative process, not enlist this Court's aid in sidestepping that process.

CONCLUSION

For the foregoing reasons, this Court should grant the relief requested by Appellees Firearm Owners Against Crime, Kim Stolfer, Joshua First, and Howard Bullock.

Respectfully submitted,



James G. Mann (Pa. 85810)



Rodney A. Corey (Pa. 69742)

Office of Chief Counsel,
Republican Caucus
Pennsylvania House of Representatives
Suite B-6, Main Capitol Building
Harrisburg, PA 17120
Phone: (717) 783-1510

*Counsel for Amicus Curiae the
Republican Caucus of the
Pennsylvania House of Representatives*

Date: August 17, 2020

COMBINED CERTIFICATES OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

I further certify that this filing complies with the 7,000 word limit of Pa.R.A.P. 531(b)(3) based on the word count of 4,612 according to the word processing system used to prepare it.

/s/ James G. Mann
James G. Mann (Pa. 85810)
Office of Chief Counsel,
Republican Caucus
Pennsylvania House of Representatives

EXHIBIT A

No. 2014-192

AN ACT

HB 80

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in burglary and other criminal intrusion, further providing for the offense of criminal trespass; defining the offense of theft of secondary metal; prescribing penalties; and, in firearms and other dangerous articles, further providing for Pennsylvania State Police and for limitation on the regulation of firearms and ammunition.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 3503(b.1) and (d) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 3503. Criminal trespass.

* * *

(b.1) Simple trespasser.—

(1) A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place for the purpose of:

(i) threatening or terrorizing the owner or occupant of the premises;

(ii) starting or causing to be started any fire upon the premises;

[or]

(iii) defacing or damaging the premises[.]; or

(iv) *unlawfully taking secondary metal from the premises.*

(2) An offense under [this subsection] *paragraph (1)(iv) constitutes a first degree misdemeanor. An offense under paragraph (1)(i), (ii) or (iii) constitutes a summary offense.*

* * *

(d) [Definition.—As used in this section, the term "school grounds" means any] *Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:*

"School grounds." Any building of or grounds of any elementary or secondary publicly funded educational institution, any elementary or secondary private school licensed by the Department of Education, any elementary or secondary parochial school, any certified day-care center or any licensed preschool program.

"Secondary metal." As defined in section 3935 (relating to theft of secondary metal).

Section 2. Title 18 is amended by adding a section to read:

§ 3935. *Theft of secondary metal.*

(a) *Offense defined.—A person commits the offense of theft of secondary metal if the person unlawfully takes or attempts to take possession of, carries away or exercises unlawful control over any secondary metal with intent to deprive the rightful owner thereof.*

(b) Grading.—Except as set forth in subsection (c):

(1) An offense under this section constitutes a misdemeanor of the third degree when the value of the secondary metal unlawfully obtained is less than \$50.

(2) When the value of the secondary metal unlawfully obtained is \$50 or more but less than \$200 the offense constitutes a misdemeanor of the second degree.

(3) When the value of the secondary metal unlawfully obtained is \$200 or more but less than \$1,000 the offense constitutes a misdemeanor of the first degree.

(4) When the value of the secondary metal unlawfully obtained is \$1,000 or more, the offense constitutes a felony of the third degree.

(c) Third or subsequent offenses.—An offense under this section constitutes a felony of the third degree when the offense is a third or subsequent offense, regardless of the value of the secondary metal. For purposes of this subsection, a first and second offense includes a conviction, acceptance of Accelerated Rehabilitative Disposition or other form of preliminary disposition before the sentencing on the present violation for an offense under this section or an offense under section 3921 (relating to theft by unlawful taking or disposition).

(d) Definition.—As used in this section, the term "secondary metal" means wire, pipe or cable commonly used by communications, gas and electrical utilities and railroads and mass transit or commuter rail agencies, copper, aluminum or other metal, or a combination of metals, that is valuable for recycling or reuse as raw material.

Section 3. Section 6111.1(f)(3) and (g)(1) and (3) of Title 18 are amended to read:

§ 6111.1. Pennsylvania State Police.

* * *

(f) Notification of mental health adjudication, treatment, commitment, drug use or addiction.—

* * *

(3) Notwithstanding any law to the contrary, the Pennsylvania State Police [may] shall, within 72 hours of receipt, disclose, electronically or otherwise, to the United States Attorney General or a designee, any record relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under 18 U.S.C. § 922 (g)(3) or (4) or an applicable state statute[.], and any record relevant to a determination of whether a person is not disqualified or is no longer disqualified from possessing or receiving a firearm under 18 U.S.C. § 922(g)(3) or (4) or an applicable state statute.

(g) Review by court.—

(1) Upon receipt of a copy of the order of a court of competent jurisdiction which vacates a final order or an involuntary certification issued by a mental health review officer, the Pennsylvania State Police shall, after disclosing relevant records under subsection (f)(3), expunge all records of the involuntary treatment received under subsection (f).

* * *

(3) The Pennsylvania State Police, *after disclosing relevant records under subsection (f)(3)*, shall expunge all records of an involuntary commitment of an individual who is discharged from a mental health facility based upon the initial review by the physician occurring within two hours of arrival under section 302(b) of the Mental Health Procedures Act and the physician's determination that no severe mental disability existed pursuant to section 302(b) of the Mental Health Procedures Act. The physician shall provide signed confirmation of the determination of the lack of severe mental disability following the initial examination under section 302(b) of the Mental Health Procedures Act to the Pennsylvania State Police.

* * *

Section 4. Section 6120(b) of Title 18 is amended and the section is amended by adding subsections to read:

§ 6120. Limitation on the regulation of firearms and ammunition.

* * *

(a.2) Relief.—A person adversely affected by an ordinance, a resolution, regulation, rule, practice or any other action promulgated or enforced by a county, municipality or township prohibited under subsection (a) or 53 Pa.C.S. § 2962(g) (relating to limitation on municipal powers) may seek declaratory or injunctive relief and actual damages in an appropriate court.

(a.3) Reasonable expenses.—A court shall award reasonable expenses to a person adversely affected in an action under subsection (a.2) for any of the following:

(1) A final determination by the court is granted in favor of the person adversely affected.

(2) The regulation in question is rescinded, repealed or otherwise abrogated after suit has been filed under subsection (a.2) but before the final determination by the court.

(b) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Dealer." The term shall include any person engaged in the business of selling at wholesale or retail a firearm or ammunition.

"Firearms." This term shall have the meaning given to it in section 5515 (relating to prohibiting of paramilitary training) but shall not include air rifles as that term is defined in section 6304 (relating to sale and use of air rifles).

"Person adversely affected." Any of the following:

(1) A resident of this Commonwealth who may legally possess a firearm under Federal and State law.

(2) A person who otherwise has standing under the laws of this Commonwealth to bring an action under subsection (a.2).

(3) A membership organization, in which a member is a person described under paragraph (1) or (2).

"Political subdivision." The term shall include any home rule charter municipality, county, city, borough, incorporated town, township or school district.

"Reasonable expenses." The term includes, but is not limited to, attorney fees, expert witness fees, court costs and compensation for loss of income.

Section 5. This act shall take effect in 60 days.

APPROVED—The 6th day of November, A.D. 2014

TOM CORBETT

EXHIBIT B

The City Council met in regular session in the Council Chambers on Wednesday, July 15, 2009 at 7:40 p.m.

Council members present: Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember.

On motion of Mr. Thompson, Seconded by Mr. Aleksandrowicz, the reading of the minutes of the meeting of July 1, 2009 were dispensed with and same adopted with copies furnished to the members of City Council by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

Copies of the bills under date of July 10th and July 17th, 2009 were given to City Council and same adopted by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0., with the exception of invoices to the NATO Centers on which Mrs. Jenkins-Husband abstained from voting.

By Mr. Cappabianca, Council File Ordinance #15,662, Pending Official File Ordinance #38-2009

an ordinance approving the plan of the Erie Sewer Authority for the issuance of an aggregate amount not to exceed **\$15,500,000.00 Sewer Revenue Bonds**, Series of 2009 and setting forth the amount, interest rates and maturity dates of the bonds; authorizing the authority to proceed with the plan of financing; authorizing the execution and delivery of a lease agreement and the incurrence of lease rental debt thereby, authorizing the specified officers of the City of Erie to prepare and certify the debt statement and to do all other acts necessary to carry out the provisions of the ordinance; setting forth the payment of the Sewer Revenue Bonds and the source of such payments, repealing all inconsistent ordinances and providing that the ordinance is effective immediately.

July 15, 2009. City Council on motion of Mr. Cappabianca, Seconded by Mrs. Jenkins-Husband, having read Council File Ordinance #15,662 and now known as Pending Official File Ordinance #38-2009, does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones and Thompson 6. Nays. 0. (Mr. Schember abstaining)

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mr. Thompson, Council File Ordinance #15,663, Pending Official File Ordinance #39-2009,

an ordinance appropriating the sum of **\$93,848.61** from unappropriated and anticipated revenue from Account #231-0613-2008-3337 Insurance Fraud Prevention and providing for the expenditure thereof by allocating said funds to various #231-0613-2009-40xx accounts. (This grant covers partial salary and overtime for the Insurance Fraud Investigator. It also covers the vehicle lease, gasoline, equipment purchases and cell phone service for the Insurance Fraud office. This grant is funded by the Commonwealth of Pennsylvania Insurance Fraud Prevention Authority.)

July 15, 2009. City Council on motion of Mr. Thompson, Seconded by Mr. Aleksandrowicz, having read Council File Ordinance #15,663 and now known as Pending Official File Ordinance #39-2009, does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mr. Thompson, Council File Ordinance #15,664, Pending Official File Ordinance #40-2009,

an ordinance appropriating the sum of **\$210,500.00** from unappropriated and anticipated revenue from Account #261-0613-2008-3336 Weed & Seed Quality of Life and providing for the expenditure thereof by allocating said sum to various #261-0613-2008-40xx accounts. (This grant is funded by PCCD for the grant period of 7/1/09 to 6/30/10. Funds will be used for overtime, supplies, training and consultant expenses for various initiatives.)

July 15, 2009. City Council on motion of Mr. Thompson, Seconded by Mr. Aleksandrowicz, having read council File Ordinance #15,664 and now known as Pending Official File Ordinance #40-2009, does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson, and Schember. 7. Nays 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mr. Jones, Council File Ordinance #15,665, Pending Official File Ordinance #41-2009,

an ordinance appropriating the sum of **\$953,386.00** from unappropriated and anticipated revenue from Account #501-0000-0000-3301 Federal Operating Grant - U. S. Department of Housing and Urban Development (HUD) and providing for the expenditure thereof by allocating said funds to Account #501-1237-2008-4075 Bridges and Streets. (These additional CDBG funds were made available to the City under the American Recovery and Reinvestment Act of 2009. The funds will be used for street resurfacing in low to moderate income neighborhoods at various locations throughout the City.)

July 15, 2009. City Council on motion of Mr. Jones, Seconded by Mr. Thompson, having read Council File Ordinance #15,665, and now known as Pending Official File Ordinance #41-2009, does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mrs. Horan-Kunco, Council File Ordinance #15,666

an ordinance amending Official File Ordinance #80-2005, known as the Zoning Ordinance of the City of Erie, by amending the definition of "**Dormitory**", revising the parking requirement for Dormitories and enacting regulations for "**Massage Therapist**" with new Special Regulation criteria and changing the dimensional maximum for directional or panel communication antennas.

July 15, 2009. City Council on motion of Ms. Horan-Kunco, Seconded by Mr. Thompson, having read Council File Ordinance #15,666 does hereby adopt on First Reading by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

By Mr. Thompson, Council File Ordinance #15,667

an ordinance designating a portion of East 21st Street between Ash and Reed Streets, as "**Clara's Way**" as an honorary tribute to her works of charity in the Erie community.

July 15, 2009. City Council on motion of Mr. Thompson, Seconded by Mr. Schember, having read Council File Ordinance #15,667, does hereby adopt on First Reading by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

By Mr. Schember, Council File Ordinance #15,668

an ordinance supplementing the Codified Ordinances of the City of Erie, Part Seven (General Offenses Code), by adding new article 739 (**Lost or Stolen Handguns**) which requires the owner of a handgun to report its loss or theft within 72 hours and providing penalties for violation thereof.

July 15, 2009. City Council on motion of Mr. Schember, Seconded by Mr. Jones, having read Council File Ordinance #15,668, does hereby adopt on First Reading by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

By Mrs. Jenkins-Husband, Council File Ordinance #15,669

an ordinance amending Official Ordinance #26-1958 known and cited as the Traffic Code of the City of Erie, by installing **Stop Signs** at six (6) intersections that are currently uncontrolled:

- 1) East 2nd Street and Pennsylvania Avenue - Stopping East 2nd Street
- 2) East 4th Street and Dunn Blvd. - Stopping East 4th Street
- 3) East 5th Street and Dunn Blvd. - Stopping East 5th Street
- 4) West 4th Street and Beverly Drive - Stopping West 4th Street
- 5) East 19th Street and Wallace Street - Stopping Wallace Street
- 6) Parade Blvd. and East Lakeview Blvd. - Stopping southbound Parade and Lakeview Blvd.

July 15, 2009. City Council on motion of Mrs. Jenkins-Husband, Seconded by Mr. Thompson, having read Council File Ordinance #15,669, does hereby adopt on First Reading by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

By Mr. Aleksandrowicz, Council File Ordinance #15,670

an ordinance appropriating the sum of **\$55,600.00** from unappropriated and unanticipated revenue #280-1280-0000-3331 IT Projects Grant Income and providing for the expenditure thereof by allocating said funds to Account #280-1280-0000-4078 IT Projects Grant Machinery & Equipment.

July 15, 2009. City Council on motion of Mr. Aleksandrowicz, Seconded by Mr. Thompson, having read Council File Ordinance #15,670, does hereby adopt on First Reading by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

Among those individuals listed under the "Citizens to be Heard" portion of the Agenda were Jana Finder, Western PA Coordinator, CeaseFirePA and Bruce Kraus, Councilman, Pittsburgh, Pa. Following are previous communications which accompanied their remarks. Additional information is attached to the proposed ordinance.

Dear Council Members:

I sincerely appreciate your interest in lost or stolen handgun reporting. I have attached to this email CeasefirePA's model "lost or stolen" ordinance. The litigation in Pittsburgh should not act as a deterrent to your council taking action on this important measure for the following reasons:

1. Of the 8 cities that have passed lost or stolen handgun reporting (Allentown, Pottsville, Pittsburgh, Wilkinsburg, Philadelphia, Lancaster, Harrisburg and Reading), only 2 have been sued (Philly & Pittsburgh). So, it clearly is not a given that any legal action would be taken against Erie after council passes this legislation.

2. However, in the event that a lawsuit occurs, the Brady Center (currently representing Pittsburgh) has promised to represent pro bono (free of charge) any Pennsylvania municipality that passes lost or stolen handgun reporting. The Brady Center has given me the authority to convey this offer to Erie.

3. Of extreme importance, the PA Commonwealth Court on June 18th issued an opinion in the Philadelphia NRA litigation that allowed Philly's lost or stolen handgun reporting ordinance to stand! The Court also upheld two other Philly ordinances concerning handguns. The opinion & CeaseFirePA's statement on the opinion is attached above.

4. Your passage of this important measure will send some very important messages--that Erie will be cracking down on straw purchasers on handguns; that Erie refused to be intimidated by the NRA and will not allow the NRA to drive the agenda for street safety in Erie; and, finally, that the General Assembly must take action statewide to address the problem of easy access to illegal handguns in the state.

Please call me at (412) 370-3778 with any questions! I hope you can get this on your agenda for your upcoming meeting. I would be happy to come to Erie to answer any questions in person. Thank you for your thoughtful consideration.

Jana Finder, Western PA Coordinator,
CeaseFirePA, P. O. Box 4656, Pittsburgh, Pa. 15206

Council President Joseph Schember, Erie City Council
626 State Street, Erie, Pa. 16501

Dear Council President Schember:

It truly was a pleasure to meet you and your colleagues and to attend your Council meeting on February 18th. Thank you for the warm welcome you gave to Jana Finder and me. Your hospitality and generosity is so appreciated.

We understand that Erie, like Pittsburgh, grapples with a high level of gun violence and we hope to join forces with you to increase public safety in our communities. To this end, we would like to arrange a follow up meeting with you in Erie. Would your April 1st 10 AM meeting be a suitable time for you? If not, please let us know the Council's availability for such a meeting and we would be happy to accommodate you.

Our focus is on preventing criminals and children from obtaining illegal handguns. We have joined with CeaseFirePA in this effort because they are committed advocates for reasonable handgun laws that will dry up the illegal gun market and promote responsible gun ownership. CeaseFirePA's focus is on lost or stolen handgun reporting, which is a simple, reasonable requirement that helps law enforcement target straw purchasers who buy handguns legally and resell them on the streets to criminals and children who would be unable to pass required background checks. A lost or stolen handgun reporting requirement also helps law enforcement to track down illegal guns before they are used to commit homicides.

This is not a second Amendment issue and these efforts do not have any effect on hunting or sportsmen. As we mentioned when we spoke before the caucus, there is a growing group of Pennsylvania cities fighting back against illegal handguns in our communities. I enclose a list of the cities that have passed lost or stolen handgun reporting ordinances. The city councils of Allentown, Pottsville, Philadelphia, Reading and Pittsburgh are sending a strong statement to the General Assembly in Harrisburg; that they must act to pass a statewide lost or stolen handgun reporting law to stem the flow of illegal guns being used to murder our citizens and police officers. We look forward to working with you to address the problem of illegal handguns in Erie and Statewide.

Sincerely,

S/ Bruce Kraus, Councilman
Pittsburgh City Council
Chair, Public Safety Services

Jana Finder, JD/ MPH
Western PA Coordinator
CeaseFirePA

July 15, 2009. City Council receive and order placed on file in the Office of the City Clerk.

CITY OF PITTSBURGH
Certified Copy

Proclamation No. 428

WHEREAS, federal statistics show that most handguns used in crimes in Pennsylvania - which Governor Rendell has called a "haven for straw purchasers" - has become a source for illegal handguns in nearby states; and

WHEREAS, the Pennsylvania League of Cities and Municipalities, led by a Task force of Pennsylvania mayors concerned about rising gun violence in their communities, is in favor of a lost or stolen firearm reporting law; and

WHEREAS, according to the Uniform Crime Report, robberies with handguns were up 12 percent in Allegheny County between 2005 and 2006 and homicides by firearm were up 35 percent in the state between 2000 and 2006; and

WHEREAS, law enforcement officials and agencies across Pennsylvania and the United States, have come out in favor of a mandatory lost or stolen handgun reporting law including the International Association of Chiefs of Police, the Pennsylvania Chiefs of Police Association and the Pennsylvania District Attorney's Association; and

WHEREAS, law enforcement officials view a lost or stolen reporting requirement as an important tool to create more accountability and enable investigators to track illegal handguns used in crimes back to their original owner; and

WHEREAS, police officials believe lost or stolen reporting requirements will help crack down on illegal straw purchases of handguns by individuals without a criminal background who buy handguns in bulk and then sell them to persons with criminal records; and

WHEREAS, seven states have already passed legislation to stem the rising tide of gun violence by preventing straw purchasers from being able to buy handguns in bulk by making it mandatory for handgun owners to report their weapons lost or stolen to their local police department; and

WHEREAS, eight other communities across Pennsylvania, including the cities of Allentown, Harrisburg, Lancaster, Philadelphia, Pottsville, Reading, Wilkesburg and Pittsburgh, have all passed legislation making lost or stolen handgun reporting mandatory in their local municipalities; so

THEREFORE, BE IT RESOLVED, that Council of the City of Pittsburgh does hereby support the efforts of the Erie City Council and the Mayor of Erie in their effort to pass mandatory reporting of lost and stolen handguns; and

BE IT FURTHER RESOLVED, that a copy of this resolution shall be transmitted to the Mayor of Erie and to all members of the Erie City Council.

In Witness Whereof, I have hereunto set my hand this 13th day of July, A.D. 2009.

S/ Linda M. Johnson-Wasler, City Clerk Effective Date: July 7, 2009

July 15, 2009. City Council receive and enter in the minutes for information.

By Mr. Aleksandrowicz, Seconded by Council Members Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember
Resolved, by the Council of the City of Erie, That

WHEREAS, the City Council of the City of Erie wishes to pay special tribute to **Joe Kozlowski Kane** upon the celebration of the 95h Birthday and his lifetime achievements and contributions to the citizens of Erie, and

WHEREAS, Joe grew up at East 19th & Wayne Streets, was an East High graduate worked at Copes-Vulcan, Inc and after retiring from there in the mid 1940's served as president of the Erie Federation of Clubs for 3 years and was part of the Polish-American delegation that attended special ceremonies at the White House with President John F. Kennedy in 1961, and

WHEREAS, Joe was involved in numerous community activities, including the Times Old Newsies, helping needy families and with education for kids, but sports was his passion. He brought the game of Slow Pitch Softball to Erie, sponsoring the first team and started the Polish National Alliance bowling tournament. As a free-lance photographer, Joe travelled to All-Star and World Series baseball games with Gene Cuneo, the late sports editor at the Erie Daily Times, who is quoted as saying "Joe was a modest man who dealt with princes and if you looked inside the man you'd find he was a prince too", so

THEREFORE, BE IT RESOLVED, by the Council of the City of Erie that this commendation is hereby presented to Joe Kozlowski Kane and we extend to him our best wishes and blessings for this and many more happy and healthy birthdays to come.

July 15, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mrs. Jenkins-Husband, Seconded by Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jones, Thompson and Schember,
Resolved, by the Council of the City of Erie, That

WHEREAS, the City Council of the City of Erie wishes to pay special tribute to **Mrs. Clara Ward**, for her wonderful and selfless acts of charity on behalf of children and youth who are at risk in our community, and

WHEREAS, Clara has been doing this volunteer charitable work for the past thirty years by providing food, clothing, recreation and a safe place to rest, relax and enjoy the company of friends and family, and

WHEREAS, Clara used her own money and meager assets to accomplish the impossible and put her own financial well-being second to the needs of the children that came to her for help and guidance, so

THEREFORE, BE IT RESOLVED, by the Council of the City of Erie that this commendation is hereby presented to Mrs. Clara Ward along with our best wishes for success in her brand new "Extreme Makeover" Home and Community Center for years to come.

July 15, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mrs. Jenkins-Husband, Seconded by Council Members Aleksandrowicz, Cappabianca Horan-Kunco, Jones, Thompson and Schember, Resolved, etc.,

WHEREAS, the City Council of the City of Erie wishes to pay special tribute to **Maleno Development** who has been chosen by the Emmy Award winning reality television program "Extreme Makeover; Home Edition", to construct a dream home for a deserving Erie family within eight days, and

WHEREAS, Maleno Development will manage hundreds of volunteers in an effort to complete this project which will be a feature presentation on an upcoming episode of "Extreme Makeover: Home Edition" and

WHEREAS, Maleno Development is a family owned business headed up by John and Lynn Maleno who began in 1976 as a remodeling operation and has now built more than a thousand homes and apartments in beautiful neighborhoods and residential communities on undeveloped lands, so

THEREFORE, BE IT RESOLVED, by the Council of the City of Erie that this commendation is hereby presented to Maleno Development for their community spirit and willingness to help those in need and for creating the Maleno Family-To-Family Fund, to continue this tradition as a helping hand to the needy of our community.

July 15, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mr. Cappabianca, Seconded by Mrs. Jenkins-Husband, Resolved, etc.,

That the Mayor and City Controller are authorized and directed to execute the **Landowner-Grants Agreement** between the City Sewer Authority (Landowner) and the City of Erie (Grantee) for implementation of a litter trap consisting of a reinforced concrete box and floating boom located at the City of Erie Wastewater Treatment Plant, 68 Port Access Road (Project Premises) as part of the PA DP Growing Greener Grants Program. This project is expected to result in measurable impact in the reduction of the volume of litter on the shores of Presque Isle Bay and Presque Isle State Park.

July 15, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, Resolved, etc.,

That the proper City officials are authorized and directed to execute documents for the Plan Revision for New Land Development for **Hamot Medical Center**, land developer, for a parcel of land identified as the Womens & Childrens Hospital, 118 East 2nd Street, for Sewer Tap-ins, in accordance with Section 5 of the "Pennsylvania Sewage Facilities Act", as amended, and the Rules and Regulations of the PA DEP. (This project conforms to applicable sewage related zoning and other sewage related municipal ordinances and plans and to a comprehensive program of pollution control and water quality management.)

July 15, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mr. Jones, Seconded by Mrs. Thompson, Resolved, etc.,

That the proposed Repository Sale of property commonly known as **902 East 5th Street**, Erie County Assessment Index #14-010-032.0-237.00 to Troy Aderholdt in the amount of \$250.00 is hereby approved by City Council.

July 15, 2009. The foregoing resolution was withdrawn at the request of the Administration.

By Mrs. Horan-Kunco, Seconded by Mr. Thompson, Resolved, etc.,

That the Financial Statements and Independent Auditor's Report for the **Erie City Water Authority** as compiled by Sean T. Sullivan, CPA. PC., for the years ending December 31, 2008 and 2007 is hereby received by City Council and ordered placed on file in the Office of Accounts, Finance & Budget.

July 15, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mr. Thompson, Seconded by Mr. Aleksandrowicz, Resolved, etc.,

That the Financial Statements and Independent Auditor's Report for the **Erie County Convention Center Authority** as compiled by Knowledge to Solutions, PC, for the year ending December 31, 2008 is hereby received by City Council and ordered placed on file in the Office of Accounts, Finance & Budget.

July 15, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

To: Ms. Rubye Jenkins-Husband, City Council Liaison July 9, 2009
From: Jon Tushak, P. E., City Engineer
SUBJECT: City Council Change Order Award Resolution - July 15, meeting
PROJECT: 2008 Proposed Milling and Asphalt Resurfacing of various City Streets and Installation of Concrete Curb Ramps-1 Bid No. 1618-08

A resolution to award Change Order No. 1 on the contract on the above referenced project to Russell Standard Corporation, P. O. Box 86, Union City, Pa 1438, in the amount of \$15,737.84 will be presented to City Council at their Wednesday, July 15, 2009 meeting. The original contract amount was \$844,585.86. The revised contract amount is \$860,323.70. The contract has increased by 1.9% percent.

The change order is required due to the adjustment from estimated plan quantities to actual field quantities. When the work was actually performed, due to field conditions, it was necessary to increase the milling and resurfacing quantities a total of 5,868 SY. Due to field conditions related to curb ramps, it was necessary to increase the curb and sidewalk quantities. Other related quantities increased proportionately.

This change order is to be charged to the 018 Bond Issue Fund, Budget Code 018-0713-0000-4075. Please contact me at extension 1377 if you have any questions.

By Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, Resolved, etc.,

That Change Order #1 on the contract of **Russell Standard Corporation**, P. O. Box 86, Union City, Pa., for the 2008 proposed Milling and Asphalt Resurfacing of various City Streets and Installation of Concrete Curb Ramps-1, adding the sum of \$15,737.84, due to the adjustment from estimated plan quantities to actual field quantities and the increase of the milling and resurfacing quantities a total of 5,868 SY, thereby increasing the amount of the contract from \$844,585.86 to \$860,323.70.

July 15, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mr. Thompson, Seconded by Mrs. Jenkins-Husband, Resolved, etc.,

That the following amounts are transferred in the 2008 Weed & Seed Grant:

<u>Transferred From</u>		<u>Transferred To</u>		
Amount	Account	Title	Amount	Account Title
\$ 212.69	261-0613-2008-4016	FICA	8,863.65	261-0613-2008-4006 Overtime
140.76	"	4021 Valic		
2,495.18	"	4033 Operating Supplies		
3,054.09	"	4056 Repair & Maint. Services		
2,960.04	"	4059 Other Services & Charges		
\$ 8,863.65				

(This transfer is necessary to close out the grant as it expired 6/30/09. Modifications were made throughout the grant period and this transfer will move funds into the appropriate expenditure accounts)

July 15, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays. 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mr. Aleksandrowicz, Seconded by Mr. Thompson, Resolved, etc.,

That the Mayor and City Controller are authorized and directed to execute contracts between the City of Erie and the following individuals and/or companies for goods and/or services as noted and charging same to the respective Budget Code Numbers:

1. **Sunguard Pentamation**, 3 West Broad Street, Bethlehem, PA, for new hardware, software and training for the new automated system designed for the collection of all employee timecard related data for the Computer Service Department of the City of Erie at a total cost of \$35,133.00.
2. **Dave Hallman Chevrolet, Inc.**, 1925 State Street, Erie, Pa., for (2) 1/2 ton Silverado 4x4 Trucks for the Bureau of Parks for the sum of \$45,400.00. (To replace two of the six trucks that were destroyed by the flood that occurred on June 30, 2009.)

3. **Bob Ferrando World**, Rt. 20, Girard, Pa. for (2) 3/4 ton Ford F250 4x4 Trucks for the Bureau of Parks for the sum of \$45,809.00. (To replace two of the six trucks that were destroyed by the flood that occurred on June 30, 2009.)
4. **Bank Capital Services Corporation**, 1853 Highway 315, Pittston, Pa., for a four year lease of a 2009 Chevrolet Traverse 4x4, for the Insurance Fraud Investigation Unit, Bureau of Police, at a total cost of \$31,075.68 (16 quarterly payments @ \$1,042.23 each) plus a \$300 documentation fee for a term of 7/25/09 to 4/25/12.
5. **XL Excavating, Inc.**, P. O. Box 9736, Erie, Pa., lowest of four bids received for the East 7th Street Storm Sewer Project, Bid #1638-09 for the sum of \$89,033.19. This project will construct a separate storm sewer in East 7th Street from East Avenue to the cul-de-sac just west of Perry Street. The project will (1) Separate two (2) City storm inlets and area parking lot inlets from the combined sewer; (2) Alleviate sewer backups in area basements and (3) improve storm drainage.
6. **Tom Tushak, Inc.**, 318 Mechanic Street, Girard, Pa. for the 2009 Curb and Sidewalk Replacement at various locations, Bid #1637-09, for the sum of \$21,315.45, lowest of two bids received.
7. **Guzik Concrete & Masonry**, RD 2, Box 2740, Union City, Pa., for the 2009 Curb Ramps Project, Bid 1639-09, lowest of four bidders in the sum of \$334,181.38.
8. **William T. Spaeder Co.**, 1602 East 18th Street, Erie, Pa., lowest of three bidders for the Mill Creek Litter Trap, Bid #1635-09, in the amount of \$74,490.00. (The project is being funded by a Department of Environmental Protection Growing Greener reimbursement grant.)
9. **Russell Standard Corporation**, P. O. Box 86, Union City, Pa., for the 2009 Proposed Milling and Asphalt Resurfacing of various City Streets and installation of Concrete Curb Ramps, lowest of three bids in the sum of \$1,033,344.28.

July 15, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

By Mr. Aleksandrowicz, Seconded by Mr. Thompson, Resolved, etc.,

That the City Purchasing Agent is authorized and directed to issue purchase orders to the following individuals and/or companies for goods and/or services as noted and charging same to the respective Budget Code Numbers:

1. **CDW-Government**, 75 Remittance Drive, Suite 1515, Chicago, Illinois for PC Replacement in Payroll and Human Resources for the Computer Service Department for the sum of \$4,913.00.
2. **William J. Miller, Esq.**, 106 Rampart Lane, Ligonier, Pa., for Arbitration Services for the City Solicitor's Office for \$2,103.70.
3. **Michael E. Zobrak**, 1227 Pleasant Street, Aliquippa, Pa., for Arbitration Services for the City Solicitor's Office for \$5,063.83.
4. **Traffic Detectors & Signs**, 7521 Forest Hill, Youngstown, Ohio, for Repairs to broken Loop Detectors at the intersection of: East 26th and Wayne Streets; East 26th and Brandes Streets; West 12th & Cherry Streets and West 32nd & Pittsburgh Avenue, for the Traffic Engineering Division for the sum of \$9,350.00.
5. **Leo's Pneumatics & Hydraulics, Inc.**, 1821 Franklin Avenue, Erie, Pa., for a Commercial Cylinder for Tandem #1003 for the Bureau of Streets, at a cost of \$2,024.12.
6. **Vulcan Signs**, 408 East Berry Avenue, P. O. Box 1850, Foley, AL, for Sign Faces and Aluminum Sign Blanks for the Bureau of Streets for \$3,261.57.
7. **High Tread International Ltd.**, 490 Ohio Street, Lockport, NY, for Tire Disposal for the Bureau of Refuse at a cost of \$5,400.00.

July 15, 2009. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7. Nays 0.

July 15, 2009. Signed by the President. Attested by the Acting City Clerk.

 July 15, 2009. City Council on motion of Mr. Thompson, Seconded by Mr.

Aleksandrowicz, adjourned at 10:05 p.m. by yeas Council Members Aleksandrowicz,

Cappabianca, Horan-Kunco, Jenkins-Husband, Jones, Thompson and Schember. 7.

Nays. 0.

Attest:

 President of City Council

 (Acting) City Clerk

EXHIBIT C

STATED MEETING - CITY COUNCIL –MAY 26, 2009

1

A meeting of the Lancaster City Council was held on Tuesday, May 26, 2009, in Council Chambers, Southern Market Center, 100 South Queen Street, Lancaster, PA, at 7:30 p.m., with President Williams presiding.

City Council led the assembly in the Pledge of Allegiance.

Present – Ms. Collier, Mr. Morales, Mr. Polite, Mr. Roschel,
Ms. Saunders, Mr. Urdaneta & President Williams - 7

City Council approved the minutes of May 12, 2009 by a unanimous roll call vote.

READING OF PETITIONS, COMMUNICATIONS & MEMORIALS – Mayor Gray and Councilwoman Saunders honored 7 students from J.P. McCaskey High School for academic excellence. They are:

Wesley Flear – Technical and Business Careers
Quinina Wilson – Media Studies and Communications.
Silvia Maya – School of Health Sciences
Jewel Baisch – Public Leadership and Service
Dayron Enriquez – Institute of Technology
David Bishop – International and Baccalaureate Honors
Tielle Trinkle – Arts and Humanities

After the awards, Mayor Gray introduced Superintendent of Schools Pedro Rivera. He further stated that he heard last week that the McCaskey Women’s Field Hockey team had the highest grade point average of any scholastic sports team in the United States. At least the PIAA.

President Williams, on behalf of City Council, congratulated the students and wished them well in their future.

FINANCE COMMITTEE - Chairwoman Saunders stated that the Finance Committee will meet on Monday, June 1, 2009 to discuss the Omnibus Fee Ordinance as well as Supplemental Appropriations Grant for our Arts Manager

COMMUNITY DEVELOPMENT & PLANNING COMMITTEE - Chairwoman Collier stated that her Committee met before the meeting tonight and there is an item on the agenda which has to do with CDBG Funds.

Council considered the following application(s) and (Historic Commission recommendation(s) for construction & demolition within the Heritage Conservation District:

1. Legayeur Celissant, proposes construction of a two-story frame garage facing East

Mifflin Street at 31 South Marshall Street.

2. Red Rose transit Authority, proposes construction of a new mixed-use building on a surface lot at 203-213 North Queen Street.

Councilman Polite made the motion to approve and Councilman Urdaneta seconded.

Mr. David Kilmer, Director of the Red Rose Transit Authority, explained what the RRTA is planning to do at the site, which will include part of the Lancaster Museum of Art, a Parking Garage, condominiums and green roof space.

City Council approved the decisions of the HARB by a unanimous roll call vote.

Administration Bill No. 7-2009, (the title) was read by the City Clerk as follows:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF LANCASTER TO ACCEPT THE DEDICATION OF WEST GRANT STREET BETWEEN NORTH PRINCE STREET AND NORTH WATER STREET, AS REVISED, AND PLACE THE SAME ON THE OFFICIAL CITY PLAN AND DECLARE IT OPEN TO PUBLIC USE, AND TO AMEND THE EASEMENT GRANTED TO THE ACADEMY OF MUSIC TO ERECT AND MAINTAIN AN ENCLOSED PEDESTRIAN BRIDGE OVER WEST GRANT STREET TO REFLECT THE REVISED LOCATION OF WEST GRANT STREET.

Councilman Roschel made the motion to approve and Councilman Urdaneta seconded. Councilwoman Collier explained that this is an amendment to the original agreement with the Academy of Music. City Council approved Administration Bill No. 7-2009 by a unanimous roll call vote and it shall hereinafter be known as Administration Ordinance 7-2009.

Administration Bill No. 8-2009, (the title) was read by the City Clerk as follows:

AN ORDINANCE OF THE CITY OF LANCASTER AUTHORIZING AND DIRECTING THE PROPER OFFICERS OF THE CITY OF LANCASTER TO EXERCISE THE CITY'S POWERS OF EMINENT DOMAIN AS SET FORTH IN SECTION 2801 OF THE THIRD CLASS CITY CODE (53 P.S. §37801) AND SECTION 303 OF THE OPTIONAL THIRD CLASS CITY CHARTER LAW (53 P.S. §41303) APPROPRIATE AND TAKE THAT CERTAIN PROPERTY KNOWN AS 38 EAST MARION STREET IN LANCASTER CITY, LANCASTER COUNTY, PENNSYLVANIA; PROVIDING FOR THE SEVERABILITY OF THE

ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT IN ACCORDANCE WITH PENNSYLVANIA LAW.

Councilman Urdaneta made the motion to approve and Councilman Morales seconded. Councilman Roschel stated that this is the property between Marion Court and the current City Hall. As the Mayor explained in our committee meeting, there is a shortage of space for the workers at City Hall. This gives us an opportunity for expansion in the future. It also will provide that City Hall become ADA compliant. Right now there is no way for handicapped people to get to the Mayor's Office.

Tom Ponessa, co-owner of Marion Court Room as well as the co-owner of Marion Properties which is the owner of 38 East Marion Street. He commented that he would prefer that you not take this property, because in so doing it not only takes a property, but a business, a very thriving business has been at that location for decades. He stated that he wanted to come to City Council so City Council will understand his and his partner's fears for the future of their business.

Discussion ensued and the Mayor assured Mr. Ponessa that they will work together to work out a compromise.

City Council approved Administration Bill No. 8-2009 by a unanimous roll call vote and it shall hereinafter be known as Administration Ordinance No. 8-2009.

Administration Bill No. 9-2009, (the title) was read by the City Clerk as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, LANCASTER COUNTY, PENNSYLVANIA REQUIRING PROMPT NOTIFICATION TO AUTHORITIES OF LOST OR STOLEN FIREARMS, AND IMPOSING PENALTIES.; PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT AS PROVIDED BY PENNSYLVANIA LAW.

John Scarpato, 47 West Frederick Street, voiced his opinion opposing the enacting of this ordinance. Matt Holden, 315 North Reservoir Street, stated that this bill is against State Law. Dave Stoltzfus, 6 Caroline Street, stated his opposition to the ordinance, stating that it will be ineffective in curbing illegal gun sales. James Senneft, 218 North Plum Street, stated that he doesn't think it is worth the risk of the City being sued for something like this, and he doesn't think it is right to turn law-abiding citizens into potential criminals.

Bill Worley, Pastor, First Reformed United Church of Christ, and President of the Downtown Ministerium. The Ministerium met this morning and asked him to come and

speak on their behalf. He is also a Reserve Chaplain of the U.S. Marines, and a Pennsylvania Deer Hunter. As an avid gun owner, he stated that if one of his guns is lost or stolen, he would want it back, before it is used by someone else for a purpose that is not intended. He stated that City Council has a moral and ethical responsibility. Pastor Kevin Brown, Pastor of Ray's Temple, Community Church of God in Christ, strongly supports the passage of this bill. He has attended many funerals for people who have been victims of crimes resulting of the illegal use of handguns.

Joe Grace, Executive Director of CeaseFire Pennsylvania, a statewide gun violence prevention organization. He encouraged Council to approve this bill stating that it is not about 2nd amendment rights, it is about law enforcement. He further stated that 6 Pennsylvania cities have already approved this ordinance. It is time to take steps to protect our communities, our citizens and our police officers, from the real, clear and present danger posed by illegal handguns.

Fred Wiggin, Manheim, stated that he would like to state that we are not getting to the core of the real issue. We are taking away rights and putting citizens in a situation where they would become a criminal.

William Potts, New Dorwart Street, commended the City Council and the Mayor for what they do to make the community safer. He supports the gun law all the way.

Rev. Randolph T. Riggs, Pastor of First Presbyterian Church, 140 East Orange Street, came to support the President Bill Worley of the Downtown Ministerium, stating that he came to encourage Council to exercise their leadership that will help police officers enforce the illegal possession of guns. He stated that he thinks it is a start.

Max Nacheman, Philadelphia, stated that he represents a National Coalition of Mayors, of which Mayor Gray is a leader, Mayors Against Illegal Guns and the Brady Campaign Against Gun Violence. He stated that he would address a concern of a lawsuit that may or may not follow the enactment of the lost or stolen ordinance. The NRA has used this tactic to try to scare other cities, after Pittsburgh passed this ordinance. They have since threatened the City of Harrisburg with the same lawsuit. Should the NRA instigate a lawsuit, the Brady Campaign Against Gun Violence has offered the full service of their legal team to provide pro bono legal coverage to any city that is threatened to be served with a lawsuit regarding the lost or stolen handgun reporting ordinance.

Pam Carney, Sherman Street, commended Council and the Mayor for bringing this ordinance. She noted that a responsible person must register their car and if it is stolen, it is reported. What is wrong with reporting a stolen weapon?

Mayor Gray stated that as far as pre-emption goes, that remains to be seen. In Pennsylvania, the law says that the municipality cannot regulate the lawful possession of firearms. He stated that he would challenge anyone to tell me how requiring the reporting of a lost or stolen gun is the regulation of the lawful possession of a firearm. The argument that we are going to victimize the victim, stating that motorcycles are to him what firearms are to

a lot of other people. He knows of no one that if a firearm was stolen, they wouldn't report it. This isn't to get people to report lost or stolen guns. Perhaps 35 years in the criminal justice system has taught him that people use excuses when they are caught in crime. An individual buys a gun legally and sells it illegally. The gun is then used in a crime. It is traced back to the person who purchased it. What does the person say? "Oh, that gun was stolen from me." Why didn't you report it? "I didn't think it was important." The straw purchaser gets off. That's what this law is aimed at. It is not about law abiding people who own firearms, who are victims of thefts or mislay a firearm. That is not what it is aimed at. It is aimed at the individual who is making straw purchases and then uses the excuse, after that firearm is used in the commission of a crime, or discovered being in the possession of a felon, uses the excuse that the firearm was lost or stolen. That is what this is aimed at. This is aimed at the straw purchaser who purchases the gun and sells it at a handsome profit. Then when he or she is discovered, uses the excuse that it was lost or stolen.

Will it be effective? Maybe. Would it be more effective on the State Level? Absolutely. But until the General Assembly steps up to the plate and starts addressing these things, and gives us as a community, self defense. We have a right to self defense too. Not just the guy with the gun. We, as a community, have a right to defend ourselves from people who would illegally use guns in our community. Until the General Assembly steps up to the plate, it is up to us at the local level to do what little bit we can.

Councilman Polite thanked the supporters of this ordinance for coming tonight and expressing their opinions, especially the members of the Downtown Ministerium. He further thanked Mr. Nacheman from the Brady Campaign Against Gun Violence for his e-mail of today and for coming to support the Council.

Councilman Morales stated that he would like to commend Mayor Gray for bringing this to Council. He stated that as someone in this community who has seen what gun violence can do, he applauds Mayor Gray's courage and leadership in this situation because despite people saying "you're a member of council and you tend to agree with the Mayor." It has nothing to do with politics, political party, or any other position that either of us hold. It is the right thing to do for the City of Lancaster and it takes great courage to do this. He stated that he has gotten more e-mails on this issue than any other issue since he was a member of City Council. So to suggest that those people that are adamant gun owners and have paranoia about this eroding their rights as gun owners, the Mayor's taking a stand that flies in the face of that and if anything it would threaten his popularity among those gun owners.

Councilman Urdaneta stated that he stands to support this bill because that he believes that the arguments that this is infringing the right to bear arms is false, or that this would put citizens in the position of becoming criminals.

Administration Resolution No.42-2009, (the title) was read by the City Clerk as follows:

A RESOLUTION OF THE COUNCIL OF THE CITY OF

LANCASTER APPROVING A SUBSTANTIAL AMENDMENT TO THE 2008 ANNUAL ACTION PLAN TO APPLY FOR FUNDING UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

Councilman Urdaneta made the motion to approve and Councilman Roschel seconded.

Randy Patterson, Director of Economic Development & Neighborhood Revitalization stated the plan of action for the use of these dollars is to allocate the full amount short of 10% that we will use for administrative costs to the City's Vacant Property Reinvestment Program. That program currently involves the acquisition through eminent domain of condemned properties and vacant and blighted properties in the City. Those properties are then put on a list available to any individual to come and purchase, renovate that property and then sell it to a homeowner or live in it themselves. In the past 2 years we have made a significant effort to reduce the number of condemned properties that remain unattended. Despite that process we still have a number of properties that sit for some time because we cannot find an interested buyer or because of the just compensation clause or the cost of renovation of that property. We are suggesting that we use the \$434,000 to enable the RACL under contract with the City to hire a general contractor to oversee the renovation of those properties immediately to get them on the market and to resell them to homeowners. Our expectation with these funds is that we can complete approximately 12 properties, create 12 to 15 jobs and create some part-time construction jobs. We intend to create a partnership with Stevens College as well as the Housing Development Corporation to utilize both green technology as well as weatherization programs in the renovations of the properties. We intend to work with the General Contractor to ensure that City businesses are used as subcontractors.

City Council approved Administration Resolution No. 42-2009, by a unanimous roll call vote.

PUBLIC COMMENT – John Scarpato, 47 West Frederick Street, stated that referring to the State Law of Firearms, that losing a gun or having it stolen is directly related to the possession of that firearm. He further stated that referring to the Brady Campaign's offer to represent the City Pro Bono; his understanding is that there are still costs to the Cities that they have represented.

Bonnie Miller, Manor Township, a Real Estate Broker, commented on Franklin & Marshall College's plan to place new pole lights along the edges of Buchanan Avenue. She asked the Mayor and Council to look into this matter.

Jerry Greiner, Race Avenue, also addressed Council about F&M's plan to place lights along Buchanan Park. He asked that the City look into the problem of the lighting that is being installed, which is extraordinarily bright for the neighbors to deal with after hours.

Eileen Gregg and Kathy Kunkel from the Committee to Preserve Buchanan Park, both gave presentations to Council in opposition to the new lighting at Buchanan Park.

REPORT OF THE MAYOR - Mayor Gray made his report and it can be viewed in its entirety on the City's website. www.cityoflancasterpa.com

President Williams adjourned the meeting at 9:10 p.m.

Louise B. Williams, President

Attest:

City Clerk

EXHIBIT D

Guns Sales/Transfers and Violent Firearm Offenses in Pennsylvania

The table below includes information compiled by the Pennsylvania State Police in its *Pennsylvania State Police Firearms Annual Report* from 2006 through 2019, available at <https://www.psp.pa.gov/firearms-information/Pages/Firearms-Information.aspx>.

Year	Firearm Sales in Pennsylvania ¹	Violent Firearm Offenses ²
2006	415,075 ³	15,209
2007	404,528	14,222 - 6.5% from 2006
2008	463,976	13,814 - 9.2% from 2006
2009	496,277	12,593 - 17.2% from 2006
2010	496,720	12,294 - 19.2% from 2006
2011	606,924	12,510 -17.7% from 2006

¹ Annual firearm sales in this column are drawn from either Appendix B or Appendix C of the *Pennsylvania State Police Firearms Annual Report* for each applicable year. Available at <https://www.psp.pa.gov/firearms-information/Pages/Firearms-Information.aspx>. 2006 – 2008 figures are from Appendix B of each year’s report. The remainder are from Appendix C of each year’s report. Note: The figures include both purchases and private transfers through dealers.

² Violent firearms offenses include all homicides, robberies and aggravated assaults committed with a firearm. These figures are the totals from each year’s *Pennsylvania State Police Firearms Annual Report*, available at <https://www.psp.pa.gov/firearms-information/Pages/Firearms-Information.aspx>. A detailed breakdown of these crimes and the aggregate totals appears in the next table.

³ See Appendices B and C of the *2006 Pennsylvania State Police Firearms Annual Report* – but see 413,165 on p. 2 of the report.

2012	800,890	12,180 <i>- 19.9% from 2006</i>
2013	808,507	11,281 <i>- 25.8% from 2006</i>
2014	676,099	10,468 <i>-31% from 2006</i>
2015	755,764	10,698 <i>-30% from 2006</i>
2016	846,197	10,632 <i>-30% from 2006</i>
2017	791,220	10,227 <i>- 32% from 2006</i>
2018	756,550	9,357 <i>-38.5% from 2006</i>
2019	766,204	8,302 <i>-45% from 2006</i>

Number of Reported Violent Firearm Offenses Pennsylvania - 2006-2019

Offenses with Firearm	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Homicide	553	528	506	456	633	595	657	579	545	609	580	637	595	471
Robbery	8,760	8,173	7,868	7,223	6,626	6,855	6,526	6,011	5,577	5,398	5,182	4,844	3,930	3,237
Agg. Assault	5,896	5,521	5,440	4,914	5,035	5,060	4,997	4,691	4,346	4,691	4,870	4,746	4,832	4,594
Total	15,209	14,222	13,814	12,593	12,294	12,510	12,180	11,281	10,468	10,698	10,632	10,277	9,357	8,302

These figures are compiled from the various annual editions of the *Pennsylvania State Police Firearms Annual Report*, available at <https://www.psp.pa.gov/firearms-information/Pages/Firearms-Information.aspx>, and reflect crimes committed with firearms which are tracked in those *Reports*. The gun crimes table appears at the following location for each year's *Report*: 2006 and 2015-2017, at page 7; 2007-2014 and 2019, at page 6; and 2018, at pages 6-7.