



CITY COUNCIL

Meeting Agenda

**REGULAR MEETING
COUNCIL CHAMBERS**

**MONDAY, DECEMBER 18, 2006
7:00 P.M.**

OPENING MATTERS

CALL TO ORDER

INVOCATION: Fr. John Gibbons, St. Margaret's RC Church

PLEDGE OF ALLEGIANCE

ROLL CALL

PROCLAMATIONS AND PRESENTATIONS

Council Commendations:

Recognizing the many contributions of the Hillside Playground Association.

PUBLIC COMMENT – AGENDA MATTERS:

Citizens have the opportunity to address the Council, by registering with the City Clerk before the start of the meeting. All remarks must be directed to Council as a body and not to any individual Council member or public or elected official in attendance. Any person making personally offensive or impertinent remarks or who shall become unruly while addressing Council may be called to order by the Presiding Officer, and may be barred from speaking before Council, unless permission to continue speaking is granted by the majority vote of Council.

All comments by the public shall be made from the speaker's podium. Citizens attending the meeting may not cross into the area beyond the podium. Any materials to be distributed to Council must be given to the City Clerk before the meeting is called to order. Those commenting on an agenda business shall speak at the beginning of the meeting and shall limit their remarks to 5 minutes. Those commenting on general matters shall speak after the legislative business is concluded and shall limit their remarks to 3 minutes.

No comments shall be made from any other location except the podium, and anyone making "out of order" comments may be subject to removal. There will be no demonstration at the conclusion of anyone's presentation. Citizens may not ask questions of Council member or other elected or public official in attendance.

APPROVAL OF AGENDA AND MINUTES

2. AGENDA: Council Meeting of December 18, 2006

3. MINUTES:

4. CONSENT AGENDA

5. ADMINISTRATIVE REPORTS

6. FINANCE REPORT

7. REPORT FROM OFFICE OF THE AUDITOR

8. REPORTS FROM DIRECTORS & BOARDS AUTHORITIES AND COMMISSIONS

9. ORDINANCES FOR FINAL PASSAGE

Bill No. 40- Amending the Codified Ordinances of the City of Reading Chapter 1 Administration and Government Part 6 Pensions, by allowing any member who has not retired and who has served in the Armed Forces of the United States subsequent to September 1, 1940, and was not a member of the fund prior to military service, to receive full credit for each year or fraction, to the completed month, not to exceed 5 years. ***(Solicitor/Police Department) Introduced at the 04/24/06 meeting of Council; tabled at the 05/08/06 meeting of Council; discussed at the 05/22/06 Committee of the Whole meeting; tabled at the 05/22/06 meeting of Council; discussed at the 06/12/06 Committee of the Whole meeting; tabled pending further discussion at the 07/03/06 Finance Committee meeting; adoption pending further discussion at the 08/07/06 Finance Committee meeting; discussed at the 08/07/06 Finance Committee meeting; further discussed at the 09/05/06 Finance Committee meeting; pending review of final figures.***

Bill No. 61- Amending the City of Reading Zoning Ordinance to permit municipal buildings by-right in certain zones. **(Solicitor)** *Introduced at the 08/28/06 meeting of Council; Public Hearing scheduled for Tue, Sept 26th 5 p.m.; Public hearing was held on Tue, Sept 26th; awaiting further amendment by the Planning Commission.*

Bill No. 105- Requiring a water utility systems analysis. **(Councilman Fuhs)** *Introduced at the 12/11/06 meeting of Council, passage pending two week layover period; discussed at the 12/11/06 Committee of the Whole meeting.*

Bill No. 106- Adopting the 2006 International Plumbing Code. **(Solicitor/Codes)** *Introduced at the 12/11/06 meeting of Council.*

Bill No. 107- Adopting the 2006 Fuel Gas Code. **(Solicitor/Codes)** *Introduced at the 12/11/06 meeting of Council.*

Bill No. 108- Adopting the 2006 Energy Conservation Code. **(Solicitor/Codes)** *Introduced at the 12/11/06 meeting of Council.*

10. INTRODUCTION OF NEW ORDINANCES

11. RESOLUTIONS

Resolution- Ratifying the Cable Franchise Agreement. **(Managing Director)**

Resolution- Approving a settlement for flood related property damage. **(Solicitor)**

PUBLIC COMMENT - GENERAL MATTERS COUNCIL BUSINESS / COMMENTS

COUNCIL MEETING SCHEDULE

Committee of the Whole- Mon, December, 18th, Council Office 5:00p.m.

Regular Meeting-Mon, December 18th, Council Chambers 7:00p.m.

Closed for the Christmas Holiday-Mon, December 25th

Special Meeting of Council-Tue, December 26th

Closed New Years Day-Mon, January 1st

Finance Committee Meeting-Tues, January 2nd Council Office 5:00p.m.

Administrative Oversight Committee Meeting-Tues, January 2nd, Council Office 5:00p.m.

Meeting with Mayor-Wed, January 3rd, Mayor's Office 4:00p.m.

Committee of the Whole- Mon, January 8th, Council Office 5:00p.m.

Regular Meeting-Mon, January 8th, Council Chambers 7:00p.m.

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF READING AUTHORIZING THE EXECUTION OF
A CABLE FRANCHISE AGREEMENT BETWEEN
THE CITY AND COMCAST OF NEW MEXICO/PENNSYLVANIA LLC

WHEREAS, pursuant to the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996 (hereinafter collectively referred to as the “Cable Act”), the regulations of the Federal Communications Commission and Pennsylvania law, the City is authorized to grant franchises to construct, operate and maintain a cable system utilizing public rights-of-way and properties within the City’s jurisdiction; and

WHEREAS, Comcast of New Mexico/Pennsylvania, LLC (hereinafter referred to as “Comcast”) currently holds a cable franchise from the City by virtue of a cable franchise agreement that the City entered into with BerksCable on December 24, 1985 and is subject to City Ordinance 101-85 entitled “City of Reading Cable Television Ordinance”; and

WHEREAS, Comcast has requested a renewal of its franchise to maintain, construct, operate, and upgrade its cable system over, under and along the aforesaid rights-of-ways for use by the City’s residents; and

WHEREAS, the aforesaid rights-of-way used by Comcast are public properties acquired and maintained by the City and the right to use said rights-of-way is a valuable property right; and

WHEREAS, the City desires to protect and manage the aforesaid rights-of-way, ensure future technical improvements to maintain a technologically-advanced cable system, require high standards of customer service, obtain complimentary services for its public buildings, require improvements to its public, educational and governmental

channels, receive franchise fees for Comcast's use of the City's rights-of-ways as provided by federal law, establish certain reporting requirements and provide for the current and future cable-related needs of its residents; and

WHEREAS, the City conducted a comprehensive ascertainment process with respect to cable franchise renewal, including, but not limited to, a community needs assessment, a technical audit, and a franchise fee review, all of which resulted in reports that have been provided to Comcast; and

WHEREAS, the City held public hearings on July 20, 2005 and September 21, 2005 on the subject of cable television franchise renewal, including reviewing the cable operator's past performance and identifying the City's future cable-related community needs; and

WHEREAS, the City has determined that Comcast has the financial, legal and technical ability to provide cable services to Subscribers located in the City; and

WHEREAS, the City, after affording the public notice and opportunity for comment, has determined that the public interest would be served by renewing Comcast's franchise according to the terms and conditions contained herein;

NOW THEREFORE, BE IT RESOLVED that the Reading City Council does hereby approve and adopt the Cable Franchise Agreement negotiated with Comcast, including all of the terms and conditions contained therein, and does hereby authorize the execution of such agreement.

RESOLVED this ___ day of _____, 2006.

ATTEST:

CITY OF READING

Linda Kelleher, City Clerk

President, Reading City Council

**AN AGREEMENT BETWEEN THE CITY OF READING
AND COMCAST OF NEW MEXICO/PENNSYLVANIA, LLC.**

In conjunction with the Franchise Agreement (“Agreement”) between the City of Reading, Berks County, Pennsylvania (“City”), and Comcast of New Mexico/Pennsylvania, LLC (“Comcast”), and in consideration of the mutual promises contained herein and intending to be legally bound hereby, this Agreement is made and executed by the undersigned as of the last date set forth below.

WHEREAS, Comcast and its predecessors have provided Cable Service in the City using the public rights-of-way in accordance with applicable law; and

WHEREAS, pursuant to Section 4.6 (A) of Ordinance No. 101-85, incorporated by a Franchise Agreement dated December 24, 1985 (effective upon 30 days), Comcast and its predecessors shall submit to the City a Franchise Fee in the amount of five percent (5%) of annual Gross Revenues; and

WHEREAS, the City contends that Comcast and its predecessors have underpaid the Franchise Fee on such revenues derived from Cable Service during the period August 1, 1997 through December 31, 2005; and

WHEREAS, the City and Comcast have decided to amicably resolve this issue.

NOW THEREFORE, the City, in consideration of the commitment made by Comcast set forth herein, agrees as follows:

1. In consideration for the release by the City contained herein, and the other terms and conditions of this Agreement, and in full satisfaction of any and all claims which the City may have against Comcast relating to the above claim that Comcast has underpaid Franchise Fees during the aforementioned period, the City shall accept a check issued by Comcast and made payable to the City, upon request, in the amount of EIGHTY-FIVE THOUSAND DOLLARS (\$85,000). This amount is payable and due within forty-five (45) days from the mutual execution by the parties of this Agreement.

2. In addition to the above, and under the same consideration and other terms and conditions of this Agreement, Comcast shall issue a second check and payable to the City, upon request, in the amount of EIGHTY THOUSAND DOLLARS (\$80,000). This amount is payable and due within one hundred (180) days from the mutual execution by the parties of this Agreement.

3. Subject to the provisions hereof, the City does hereby release and forever discharge Comcast, its parents, subsidiaries and affiliates, and their respective officers, directors, partners, principals, employees, agents, representatives, successors, and assigns of and from any and all debts, demands, actions, causes of action, manner of actions, suits, accounts, dues, covenants, agreements, judgments, controversies, damages, and any and all claims, demands, and liabilities of any nature whatsoever, both at law and in equity, which the City has as of the date hereof, may ever have had, or hereafter may have against Comcast, or any of them, related to or arising out of the alleged underpayment of Franchise Fees from the period August 1, 1997 through and including December 31, 2005.

4. This release shall become effective upon the execution of this Agreement by an authorized representative of the City and accepted by an officer of Comcast.

IN WITNESS WHEREOF, THE CITY HEREBY EXECUTES THIS AGREEMENT:

Attest:

CITY OF READING

By: _____

Print: _____

Title: _____

Date: _____

ACCEPTED BY:

Attest:

COMCAST OF
NEW MEXICO/PENNSYLVANIA, LLC.

By: _____

Print: _____

Title: _____

Date: _____