

BETHLEHEM CITY COUNCIL MEETING  
10 East Church Street - Town Hall  
Bethlehem, Pennsylvania  
Tuesday, March 20, 2018 - 7:00 PM

INVOCATION

President Waldron asked for a moment of silence which was followed by the pledge to the flag.

PLEDGE TO THE FLAG

1. ROLL CALL

President Waldron called the meeting to order. Present were Bryan G. Callahan, Michael G. Colón, Shawn M. Martell, Olga Negrón, J. William Reynolds, Paige Van Wirt, and Adam R. Waldron, 7.

2. APPROVAL OF MINUTES

The Minutes of March 1, 2018 and March 6, 2018 were approved.

3. PUBLIC COMMENT (on any subject not being voted on this evening - 5 minutes time limit)

*Public Comment/Committee Minutes/Council Minutes*

Ed Gallagher, 49 West Greenwich Street stated that someone scheduled two meetings at the same time tomorrow; one regarding the billboard and the other regarding the parking study. He heard that those meetings might be cancelled because of the weather. The Zoning Hearing Board meeting would normally be here in Town Hall, but the only announcement he saw was in The Morning Call of March 3<sup>rd</sup> did not say where it would take place. Mr. Gallagher continued with Committee Meetings and noted as far as he can tell the CD Committee has met twice and the Finance Committee has met once. He has not seen notice that the other Committees have met and hopes those meeting announcements will be on the City's website so people like himself could attend those meetings. Mr. Gallagher mentioned kudos to whoever does the minutes for the Council meetings; they are narrative and capture direct phrases. They are very interesting to read and very informative. He hopes they are archived somewhere for history. Mr. Gallagher stated he sees no minutes for the Planning and Zoning Boards on the website, but there is a space on the website for the publication of those minutes. He looked for minutes when in a previous meeting someone mentioned there was a City official who spoke as a private person at a Zoning Hearing Board Meeting. He is interested in how that happened but could not find that. He did get to a CRIZ meeting but he sees no minutes for the CRIZ. He noted that the Social Still is one of his favorite places so he would like to see the minutes of some of those meetings. Mr. Gallagher noted it may not be a requirement to publish those minutes but someone like him is looking for them. He continued to say that he would like to talk about increasing participation and the way this meeting is run. He has mentioned that he sees two periods for public participation at these meetings, and they are the timeline between comment on issues that are going to be voted on and

the lack of direct dialogue or interaction with the public on issues that are going to be voted on. Mr. Gallagher noted 15 or 20 minutes might lapse between the public comment and the discussion of an issue so there is no chance to clear up misconceptions, no feedback or follow up, at least at the meeting. There is also no opportunity to push for further clarification and no chance to know exactly what you on Council are thinking until you say it in the discussion of the issue and then it is too late for anybody to respond. Mr. Gallagher sees that there was public comment at the end of meetings and on January 2<sup>nd</sup> there was a public comment at the end so you have done this before. He remarked at the Historic Conservation Commission Meeting yesterday there was discussion that was very friendly and informal with a nice back and forth and at a certain point during that discussion the Chair of that Commission asked if anyone from the public would like to comment and that felt so right at that time. Mr. Gallagher hopes that Council will do more with public participation at these meetings.

President Waldron thanked Mr. Gallagher and expressed that in the interest of public participation he will make some comments based on Mr. Gallagher's comments. He pointed out around a year ago we made the change for public comment on any subject, what Mr. Gallagher just spoke on, to be moved from the end of the meeting to the beginning of the meeting so people would not have to sit through a two hour meeting if they wanted to talk about something such a tree removal. The public comment would occur first and they would not have to stay through the whole meeting. President Waldron added that Committee Meetings are scheduled as needed and are always posted on our City website. He continued to say that unfortunately, we do not oversee the Planning Commission, Zoning Hearing Board or BRIA, the Authority that oversees the CRIZ, as far as their minutes or their posting are concerned. We can help with the posting of that but the minutes are not something that is in our purview to mandate. President Waldron knows that our City Clerk's Office works very hard to have our minutes accurate and posting them on the website once they are approved by Council. He is sure that Judy Kelechava will take your compliment as she listens to it.

#### *Meeting Announcements*

Mary Toulouse, 1528 West Market Street mentioned whenever she comes to a meeting here she always wonders how she is supposed to enter the building. In the past she had to go through doors on Church Street to get Town Hall and sometimes enter Town Hall to get to a meeting in City Hall. She mentioned an unfortunate incident at the second Zoning Hearing Board on the Armory where there were people who were coming and wanted to testify, but there were signs on the door and they could not get in. Ms. Toulouse remarked it would seem that a message board would be very helpful. She understands the paper announcements placed on the doors and walls, but there should be something more formal and organized. Ms. Toulouse pointed out she spent the last week overseeing a message board which is tastefully done. It does not blink, is not neon, but it informs people about where the meetings are, when they are happening and other important things. Ms. Toulouse added that this is much more effective than these little scraps of paper that are taped onto the windows and is much more professional. This is just a suggestion.

#### *Public Comment*

Stephen Antalics, 737 Ridge Street stated he wanted to bring attention to comments made at the last meeting by Professor Ed Gallagher and Mr. Bruce Haines. To stonewall the public, as they had alluded to, could be disastrous. He referenced a \$121,000 debt to the City that was

owed by an organization and mentioned when there was no comment from Council Members when the issue was raised by a private citizen, and it frustrated the citizen. The citizen insisted that since Council cannot answer the questions, perhaps the District Attorney could find the answers for them regarding the matter. It went to a Grand Jury and cost the taxpayers for something that he feels should have been under Council's jurisdiction. Mr. Antalics noted that that matter involved a Member of Council who then resigned and moved out of the area. He continued to say this seems that the people at that table are members of an elite club and covering up for one of themselves because they would not bring out this dirty linen. Mr. Antalics stated you are not a club; your direct responsibility exists to the people. The Council then negated their responsibility. The comments made by Professor Gallagher and Mr. Haines are critical because the inability of Council to answer a fair question about what is happening to our money was totally ignored and handed over to a Grand Jury. Mr. Antalics stated you should respond to what people here say, most are responsible people and have done their research, and to be ignored is the height of insult. So both gentlemen were correct in bringing this to your attention. Mr. Antalics informed that this present Council has exhibited some degree of responsibility. Number one, rarely they voted to make an appointment to Council the person who was the choice of the public, and that is new and significant, you listened to us. The second thing is regarding an important Ordinance to the public, you listened to us and you tabled it. That too is significant. Mr. Antalics advised the point is to continue that behavior and listen to those two people who said you must listen to people here because we love our City and are concerned with its welfare.

President Waldron thanked Mr. Antalics and added that he is glad we are not disappointing you as much as you thought we would.

Trevor Rouse, 627 East Broad Street stated he has only come to these meetings twice and the same issue has been brought up again and again. He wants to be involved in politics and making sure that these meetings are available and easy to find to the public is very important. He is someone who is interested in history, and he has been inspired by men and women who came from nothing and made it their duty to be greater than their backgrounds. If you make this open to the public you will make it to where future Councilmen come in and know what they are doing. The greatest flaw that a person can have in his opinion is the inability to realize there will be a world without them, and not preparing for that world without them. Mr. Rouse noted that great men and women throughout history have squandered everything they have ever achieved simply because they did not realize they would die one day. He simply asks to try to make sure and do your absolute best to keep these meetings easy to find so that those who come in and want to be involved in politics have their voice and are able to become a Councilman and make the City of Bethlehem great.

*National Organization for the Reform of Marijuana Laws*

Jeff Riedy, 905 Seventh Avenue, Executive Director of Lehigh Valley NORML, the local chapter of the National Organization for the Reform of Marijuana Laws remarked that their organization was founded in the 1970's to reform archaic marijuana laws that still exist across this Country. He pointed out our methods are activism, lobbying and education and our tools are knowledge of the facts and public opinion. Mr. Riedy informed he wanted to address awareness. In April, 2016, Governor Wolf signed into law Pennsylvania's Medical Marijuana Act allowing qualifying patient's relief with cannabis. The program currently includes 17 ailments from autism to cancer. He expressed in February of this year the first dispensaries began dispensing cannabis derived products to qualified patients through recommendations from State certified

physicians. One of those dispensaries is on Stefko Boulevard in Bethlehem. Our neighbors, friends, family members and tens of thousands of citizens across Pennsylvania will be consuming marijuana products for relief. They will be vaping with pens, using consuming oils, tinctures, and pills and applying topical creams for relief. He queried how will you recognize them and how will we treat them? These citizens will be carrying their medication while commuting or maybe consuming in their yard or in their homes. They are not criminal; awareness and sensitivity can rule this situation. Mr. Riedy stated that our Police Officers will be confronted with this but how will they react. The concern became very real for him a few weeks ago when he received a call from one of their members, a new medical marijuana patient. He was about to prepare himself for an impending monthly review with the Bethlehem Housing Authority the following morning. Mr. Riedy was able to speak with Executive Director at the Bethlehem Housing Authority that morning who responded just as his member sat in the housing office for review. Mr. Gonzalez assured him that the Bethlehem Housing Authority had contemplated just this situation as the City had decided to embrace the medical marijuana program. Mr. Riedy quickly shared that information with his member who was sitting in the Bethlehem Housing Authority office and as the clerk took his information the process halted at the mention of marijuana. After a heated conference with the supervisor the situation was quickly diffused at mention of Mr. Gonzalez and his recent response. He expressed that problem was averted this time, but there will more Bethlehem Housing Authority residents with that same situation happening. He posed the questions of how will the Bethlehem Police Department handle an encounter with a certified medical marijuana patient? Is the Department aware of the program and do they know what medical marijuana looks like? Do they know how and why patients are using medical marijuana? Do they know how to recognize marijuana impairment versus alcohol impairment? Mr. Riedy informed that Lehigh Valley NORML would like to help educate and inform the Bethlehem Police Force. We might be able to help facilitate awareness training at the local dispensary on Stefko Boulevard showing the Police Officers what the product looks like, what patients will be carrying and things like that. Maybe we can bring experts in to help inform Officers of the impairment and benefits of medical marijuana. He continued to say in Pennsylvania we have tens of thousands of patients who have registered as patients and these people deserve respect and understanding. Our citizens need to understand the program and our City officials and law enforcement need to educate themselves to avoid embarrassing encounters in offices and false arrests and misunderstanding with medical marijuana patients. Mr. Reidy stated that he and Lehigh Valley NORML are here to offer our help while asking for understanding.

4. PUBLIC COMMENT (on ordinances and resolutions to be voted on by Council this evening – 5 Minute Time Limit)

*Bill No. 2 – 2018 – Street Vacation – Portion of Filbert Street and Portion of Second Avenue*

Mary Toulouse, 1528 West Market Street stated she has spoken to her west side neighbors on several occasions about the importance of appropriate redevelopment of the Armory and the street vacation of Second Avenue. She reiterated that she has never heard one of her neighbors say that they are against redevelopment of the Armory site and this whole area. However, there are a significant number of neighbors who are concerned about the Peron redevelopment proposal. She noted that Bill Scheirer who goes to all of the Zoning Hearings, she believes, has stated on several occasions that he has rarely seen such a turnout as there has been at the Armory hearings. There were over 60 people at the first hearing and 30 or more at the second. Ms. Toulouse added that more than 120 individuals and families have contributed to the legal fees to

pay for the lawyer that our neighbors felt was needed to advocate for and to protect the quality of life that is normally provided by the Zoning Ordinance. Some neighbors could not afford to contribute, some felt there was no point, and some did not care, but from the feedback she has received since 2013 when they first became involved in this through emails and meetings, the majority of the immediate neighbors continue to be concerned by this issue. Ms. Toulouse explained that the redevelopment process has been flawed from the very beginning. Examples of these flaws include the criteria used in the call for proposals by the Redevelopment Authority which allowed on developer to rise to the top of the list by paying \$50,000 dollars. Another flaw was the granting of eleven variances by the Zoning Board and thirdly intervention by Darlene Heller, Director of Planning in favor of the developer during the Zoning Hearing. Ms. Toulouse stated tonight you must vote a second time on the vacation of the street. Please do not feel that you have to vote in favor of this because the Zoning and Planning Boards have approved it. Our government is made of a system of checks and balances and it is your right and responsibility to protect your constituents and community and uphold the Ordinances which you have voted on. She continued the Peron proposal is a little more than a land grab of all of the property on which the Armory is built, and of Second Avenue where there will not be enough parking for the current residents, for those coming from the new development and none for the Armory itself. Ms. Toulouse stated what they ask for are real contracts and documents. We have seen a video proposal of the development and heard many of the promises that Peron made to the Redevelopment Authority which were simply brushed away or ignored. Last November we checked with who she believes is named Karen Wright in Harrisburg who is in charge of overseeing covenants for National Historic Landmarks in Pennsylvania and she had never even heard of the Peron proposal for a covenant in spite of testimony at the Zoning Hearing. As she mentioned at the last reading of this street vacation before Council it is so very important that you put some restrictions and protections on this. She suggests an escrow fund to stabilize repairs of the historic building, the Armory. Second, a reservation of a minimum of ten spaces of a street vacation for the historic Armory, thirdly, a parking study by an outside group and lastly long term oversight of the Armory by the City so as to ensure against demolition through neglect. Ms. Toulouse stated when she means long term she means something that lasts longer than somebody who signed on for a five year rental of the building and something that is consistent with the 2013 historic landmark preservation Ordinance that was passed. Ms. Toulouse hopes that Council will consider some of the things that have been suggested.

Ed Gallagher, 49 West Greenwich Street stated would like to think of himself as a detached observer on the sidelines. His issue is about process. He noted that he is the kind of person who volunteered in Little League to be an umpire, and believes that rules make the game go. He wants to know the rules and help set them up and help enforce them for the fairness of all. Reflecting on February 6, 2018 meeting and looking at the minutes he saw that parking was the issue and they asked for a parking study. He did not think Council in response at that meeting spoke to that very specific issue. Mr. Gallagher informed that Ms. Roysdon, a few meetings before that had indicated that the west Bethlehem people did some sample counts, one was 6:00 am and at that time this area is parked up. A member of Council said that his observation was that there were 25 or 30 open spaces there, so being on the sideline he is saying to himself that the way to solve that is with a study. Mr. Gallagher went to the area today at 1:15 and at 6:30 and he counted the number of spaces. He does not think that anybody responded to that at the meeting. Mr. Gallagher stated he has heard the idea that we should trust the process, but with eleven variances and 24 or 30 less parking spaces than it should have been, he does not know if that is the truth. He would have liked to ask the question, is what those people are saying true? Were there eleven variances, were they significant variances or were they just minor

things and were there really 25 or 30 spaces less than there should be. Then there was the question about the City official speaking at the Zoning Hearing. He wondered about that and the idea we should trust the process. He just heard problems with the process. Mr. Gallagher also heard we should trust the developer. He remarked that he attended the Historic Commission Meeting yesterday. He continued to say that it was a wonderful meeting with people talking about size of letters and shades of things and the Goodman Building presentation looked terrific. One of the Commission Members said do you really have to do five floors and asked if they could do four. The representative of the company's first response was that it does not fit their business model. What is the developer about? That is money. Who would you get to front your project but an ex-Mayor perhaps, so the optics of that situation are not good. Mr. Gallagher noted that Bryan Callahan recused himself from voting and that is fine but the optics of the situation is not great. So for the detached observer trusting the process and the developer is a little tricky.

Al Wurth, 525 Sixth Avenue stated he would like to talk about the street vacation that is on the agenda tonight. The Armory project in the City of Bethlehem is a relentless support for the developer over the long term residents of the neighborhood. Resulting in zoning variances for an oversized development with utterly inadequate parking has led to the City vacating existing public street space on Filbert Street, which is near Prospect and on the wide southbound side of Second Avenue. Mr. Wurth informed this is the capstone of a million dollar giveaway to the developers that was originally promoted as a historic preservation project for the old Armory and a created reuse of the surrounding property. It has instead morphed into an oversized housing project that exceeds existing zoning limits and leaves the Armory empty and likely to be the subject to demolition by neglect or if actually reused in the future a source of additional parking demand in the already dense neighborhood. He added that he is a cyclist and this is not a safe way to build traffic that will include cyclists with parking adjacent to it. A significant amount in a municipality with significant pressures on the tax base in the City budget is demonstrated by the difference between the selling price from the City to the developer and the land value of the street space being vacated by the City. We had County assessments for this property. It is two lots to be purchased by the City and then sold to the developer and indicates that the two Armory properties are worth about \$980,000 for the Armory building lot and \$260,000 for the downhill lot. That is a total of \$1.24 million of assessed value. The street space being vacated is 18,500 square feet and 7,600 square feet, according to the Ordinance, for a total of 26,100 square feet are in affect being given to the developer and taken out of the public parking available to the residents in the neighborhood. Mr. Wurth added that adjacent land, not building properties to the neighborhood, are valued for an assessment at about \$4 a square foot, giving the value of the vacated street space at \$104,000 worth of property that could have something else put on it. The combined value of the properties and the street space totals from the assessments comes to \$1,344,400. The City has agreed to buy the properties from the State for about \$270,000 dollars, and sell them to the developer for \$322,000, which compared to the assessed value of the properties and the free streets that were thrown in tonight, nets the developer a cool \$1,022,000 dollars, which is why he calls it a million dollar giveaway. What he would ask is why we should do this. We know this is an area where there is inadequate parking and we will close this off and turn this into private property parking for this developer who will not put parking on his own property. Mr. Wurth stated the residents are now using the street parking, it is usually fairly busy and a great deal of parking usually happens on the median. He agrees with what Ms. Toulouse in having a parking study. Do not give away the dedicated parking and do not add to the giveaway, just sell the property to this guy with new variances we have given away and keep the streets for the neighborhoods need. We know this all travels with the property too; the person who we give this to could just sell it with the zoning variances and all the other stuff. He noted that on the west

side there are no driveways in this pre-auto neighborhood, and we have to be careful about how we use the available parking spaces. Please vote against this street vacation.

Bill Scheirer, 1890 Eaton Avenue remarked that tonight Council vote again on the vacation of Filbert Street and part of Second Avenue so he gets to urge Council again to delete Second Avenue from the Ordinance, primarily because this will force the developer to reduce the size of the project and make the neighborhood very happy. He expressed there were 60 residents among the 75 people at the first hearing of the Zoning Hearing Board when the Armory project was the last case on the agenda. Two of these residents were supporters, but the 20 people who spoke were opposed. Mr. Scheirer advised at the second hearing there were 35 residents, and as Ms. Toulouse mentioned, over 100 people contributed to the fund to pay a lawyer. The last he heard is that no appeal is planned. He continued to say they are not opposed to development of this site; it is only the size of the development that troubles them because they feel that it will change the essential character of their neighborhood. He uses the words essential character very carefully because the Zoning Ordinance states that a variance shall not be granted if it will change the essential character of a neighborhood. It does not take a great leap of legal thinking to assert that if any one of eleven variances did not change the essential character of the neighborhood, eleven variances in total and in combination might very well reach that result. Mr. Scheirer noted apparently the Zoning Hearing Board did not agree. He remarked it requires considerable confidence to implicitly state that your judgment as to what constitutes the essential character of a neighborhood is superior to the judgment of the people who actually live there. Regarding the size of development he commented that he has not known developers to ever first propose a project that is the absolute minimum in size to give them a reasonable profit. They want to make money and there is nothing wrong with that. He referenced the project at 13 West Morton Street where the developer originally asked for seven stories next to two and three story building, then said six stories were necessary for a profit. Currently the developer is working with the Historic Conservation Commission for the building to be four stories. Mr. Scheirer informed that he would be very surprised if the Armory developer could not make a reasonable profit with a smaller project especially since a number of the other proposals for this property were smaller in scale. He concluded by saying if you feel you know better than the residents of this neighborhood then vote to approve this Ordinance, but if you feel that neighborhood life needs to be and should be protected, then vote to amend.

*Historic Conservation Commission/Zoning Text Amendments/Public Comment*

Breana Holland, 379 Carver Drive commented regarding the Certificate of Appropriateness for 13 West Morton Street. She wanted to say that she was really impressed with how the Historic Conservation Commission engaged both the developer and the owner of the land. There was productive dialogue and as Mr. Scheirer said the developer originally wanted to have a building that was seven stories high, and these of course we know are non-compliant with the historic district guidelines. The commission worked quite effectively with the developer to lower the height despite these claims of financial infeasibility of a project with lower stories. Ms. Holland pointed out that the Commission is doing a great job and she thinks that the moral there is that you can have a really great project that will be an asset to the community and comply with the guidelines and have developers who are willing to do that kind of thing. Ms. Holland stated she wanted to comment on the three Zoning Ordinance changes that are Communications tonight. She knows from the last meeting that you had when there was a minimum lot coverage requirement change that was proposed and citizens were quite upset about that. You know from that meeting these kinds of changes to CRIZ properties, and changes to mixed use development

properties and also the item about the fast food lanes matter a lot to people. She would hope that there would be plenty of time for the public to weigh in on this before you vote on them. Ms. Holland is asking that Council give the citizens a chance not just at the same meeting but a day or so in advance before you vote on it to let us give our opinions and give feedback so we do not have to show up screaming at a meeting if we think there is a problem. In response to President Waldron's response about changing the public comment period to the beginning of the meeting so the people who are here for something small do not have to wait the whole meeting, it is still unclear to her, even though she appreciates the effort, why you could not just still have public comment at the end of a meeting. That way you could let people only speak in one or the other so you do not have people speaking three times at a meeting. It does seem to her that the public airing of conflict is central to democracy and good public reasoning. She expressed that when you shut down the ability for people to respond to what decisions you made at the end of the meeting you are foreclosing the possibility of making better policy decisions.

Stephen Antalics, 737 Ridge Street mentioned when his children were pre-school and he asked them to do a task they reneged so he would have them choose to do what he ask them to do or never get ice cream for the rest of your life. He related that the task got done, and continued to say that it seems that the same kind of logic exists in zoning and things. Mr. Antalics gave an example of Fourth and Vine Streets. He remarked the Ordinance said to meet the streetscape, which is four to five stories, but they approved a nine story building. The Historic Commission used very good logic and said the request is inappropriate, but look at Hotel Bethlehem that is nine stories, but she did not say that Hotel Bethlehem was built in 1923. So he sees similar logic here.

5. OLD BUSINESS

- A. Members of Council
- B. Tabled Items
- C. Unfinished Business

6. COMMUNICATIONS

- A. *City Solicitor – Street Vacation Ordinance – Portion of Filbert Street and Portion of Second Avenue*

The Clerk read a memorandum dated March 5, 2018 from City Solicitor William P. Leeson, Esq. regarding the vacation of portion of Filbert Street and Second Avenue. This confirms that the City and UGI have taken the necessary steps to secure signed easement agreements. Verizon has indicated no easements are required and Peron Armory and their consultants will be coordinating directly with PPL with regard to PPL's facilities and any necessary easements that may be needed for those facilities.

President Waldron stated Ordinance 8 A is on the agenda.

- B. *Director of Water and Sewer Resources – Recommendation of Award – D'Huy Engineering Inc.*

The Clerk read a memorandum dated March 12, 2018 from Edward J. Boscola, Director of Water and Sewer Resources recommending a contract with D'Huy Engineering, Inc. for engineering services for the Wastewater Treatment Plant Building Envelope Improvements. The

term of the contract is from the Notice to Proceed until March 31, 2019. The fee for the contract is \$49,000.

President Waldron stated Resolution 10 A is on the agenda.

C. *Director of Water and Sewer Resources – Records Destruction Resolution – Wastewater Treatment Plant*

The Clerk read a memorandum dated March 12, 2018 from Edward J. Boscola, Director of Water and Sewer Resources requesting Council to consider a Resolution for the Destruction of Records from the Wastewater Treatment Plant listed on the attached exhibit. Mr. Boscola has reviewed the Municipal Records Retention act and the records fall within categories where destruction is permitted.

President Waldron stated the Resolution can be placed on the April 3 agenda.

D. *Director of Planning and Zoning – Zoning Text Amendment – CRIZ – Project Definition; Lot Area Requirements*

The Clerk read a memorandum dated March 15, 2018 from Darlene Heller, Director of Planning and Zoning to which is attached a zoning text amendment Ordinance to add a definition for CRIZ Qualified Projects and add Dimensional Requirements for CRIZ Qualified Projects. The amendment was developed to allow flexibility to create small building lots strictly for the purpose of supporting CRIZ qualified projects and the related economic development that they support.

E. *Director of Planning and Zoning – Zoning Text Amendment – Drive-Through Fast Casual Restaurant in CB and CL Districts*

The Clerk read a memorandum dated March 15, 2018 from Darlene Heller, Director of Planning and Zoning to which is attached a zoning text amendment Ordinance to amend Section 1305.01.b to prohibit a Fast-Casual Restaurant with a drive through in the CB and CL districts. Restaurant drive through service is specifically prohibited in these zones to promote walkability and urban design in the core area of the City. This will rectify the discrepancy with Section 1322.s (6) that states “restaurants with drive-through service are prohibited in the CB and CL districts.”

F. *Director of Planning and Zoning – Zoning Text Amendment – Maximum Percent Building Coverage in CB District*

The Clerk read a memorandum dated March 15, 2018 from Darlene Heller, Director of Planning and Zoning to which is attached a zoning text amendment Ordinance to amend Section 1306.01.b.1 to adjust the required maximum percent building coverage in the CB zoning district for mixed use developments to 100% to be in keeping with the requirement for non-residential development uses in the same zoning district.

President Waldron stated he would accept a motion and a second to schedule a Public Hearing for all three Zoning Text Amendment Ordinances for Tuesday, May 1, 2018 at 7:00 pm in Town Hall.

Ms. Negrón and Mr. Colón moved to schedule the Public Hearing.

Voting AYE: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt, and Mr. Waldron, 7. The Motion passed.

President Waldron stated the Public Hearing will be held on the Council Meeting on Tuesday, May 1, 2018 at 7:00 pm in Town Hall. He just confirmed with Council Solicitor John J. Spirk that we will have a First Reading for the three Zoning Amendments at the second meeting in May on Wednesday, May 16, 2018. Essentially that Public Hearing on May 1, 2018 will act as the potential Community Development meeting so there will be time to discuss these in the Public Hearing and then wait two weeks for a First Reading and then the Second Reading will be on the first meeting in June on June 5, 2018.

7. REPORTS

A. *President of Council*

*Committee of the Whole Meeting*

President Waldron stated a Committee of the Whole Meeting has been scheduled for Thursday, April 19, 2018 at 6:00 pm in Town Hall. The purpose of this meeting is for City Council to attend the State Ethics Commission Ethics Training Seminar as required in Article 104. He added that this has been a long time in the making and that last year Mr. Martell put together an Ordinance that Council passed that requires all City Council Members to attend a State Ethics Training. We received a date where the State Ethics Training Board will come and in house give us a seminar for the seven Members of Council and that will be at 6:00 pm on April 19, 2018. President Waldron explained this meeting will be open to the public to sit and take in the information that we are taking in. This meeting should be around two hours long and all are welcome to attend.

B. *Mayor*

*Committee of the Whole Meeting*

Mayor Donchez reported he is requesting that all Department Heads attend this Ethics Training Meeting.

C. *Community Development Committee Meeting*

Chairman Martell stated that the Community Development Committee met on Tuesday, March 20, 2018 at 6:00 pm in Town Hall. The members of the Committee reviewed and approved the Financial Accountability Incentive Reporting forms, as required by newly established Article 349. No further action is required by City Council.

8. ORDINANCES FOR FINAL PASSAGE

A. *Bill No. 2 – 2018 – Street Vacation – Portion of Filbert Street and Portion of Second Avenue*

The Clerk read Bill No. 2 – 2018, Street Vacation – Portion of Filbert Street and Portion of Second Avenue on Final Reading.

Mr. Callahan explained he will not be voting on Agenda Item 8A due to the fact that his brother works for the company that is the co-petition in requesting the street vacation.

Dr. Van Wirt informed she thought a lot about this project and she does think that development is desired in Bethlehem and especially development like the one we are dealing with at the Armory that provides market rate apartments within walking distance of our downtown. She continued to say any development that provides market rate housing within walking distance from a downtown is in general a good thing. That is because it shores up our retail, it helps with job creation and our tax base. However, that process has to be meticulously overseen by the City to ensure that the outcome is best for both the neighborhoods and the City in general. Dr. Van Wirt explained that tonight we are being asked to address a very narrow question of is this an appropriate thing to do to vacate these streets to help the Armory project out. In general she prefers a narrow answer to narrow questions but thinks this project is different. The reason is it is taking place on public land, both public land that initially belonged to the taxpayers in Pennsylvania and public land that is owned by the taxpayers of Bethlehem that we would be vacating tonight. Because of the public nature of the land that is involved she thinks that special City oversight is mandated. If this developer had decided to go and build this apartment building on a private lot, such as the Boyd Theater, they would be constrained within zoning and historical guidelines but they could build what they want because it is a private development. Dr. Van Wirt mentioned because this is taking place on public land she thinks we owe a certain amount of oversight there. As was mentioned, the developer is buying this land for \$330,000 dollars and it is a significant discount from what the market rate would be if this 1.55 acres was clean and had nothing on it and is in the middle of this vibrant dense neighborhood within walking distance to downtown. It would be worth substantially more, but it is not clean. It has an encumbrance on it. This land has a liability or an obligation, which is this historic Armory which is very expensive to rehabilitate and maintain to the historic standards that are mandated by the covenant that goes with it. So from her understanding this project was conceived as a way to offset that cost, that very expensive cost of redeveloping the Armory by allowing an apartment building to be built on the site and those two things would be done together. However, over time as things do, things have changed; this project has morphed into something different than what was originally conceived. Dr. Van Wirt noted when the City set up the RFP for this project one of the criterion for selection of the developer were that there were not variances in the project; it was to be built to code. The other one was that the Armory was actually going to be developed. Since neither of those is actually happening she thinks the mandate for City oversight needs to change as well. So she wants to say that she does believe that this developer will maintain the Armory, she does not doubt it. Dr. Van Wirt thinks that if you are building a fancy new apartment building, the last thing a developer wants is to have a dilapidated Armory stuck on its side. But as every good business person knows you trust and then you verify. So in an attempt to verify what we need to do in terms of the City's obligation for oversight she asked Solicitor Spirk if he had some good ideas and what could we do to mandate the oversight. He came up with a very elegant solution and she asked him to explain the solution they came up with. Dr. Van Wirt mentioned when she called Tony Hanna, Director of the Redevelopment Authority to talk about this he was immediately receptive and open to the idea of what we could do to help maintain oversight.

Solicitor Spirk noted as Dr. Van Wirt accurately put it, the issue was given the separation of powers in municipal government in Pennsylvania and the relatively narrow role that the legislative body, City Council, here had, and what would be a way to maintain City oversight going forward after tonight's vote, which really for the separation of powers is the last time that this body would have a chance to weigh in on that. One way we looked at this was by contract, not by law, but by contract, by an agreement from the developer in writing to carve out a role for the City going forward. As you know there is already a historic covenant contract that is in the agreement of sale between the State and the Redevelopment Authority, also in the agreement of sale between the Redevelopment Authority and the developer. Solicitor Spirk explained that historic covenant runs with the land, will be binding on subsequent purchasers, and it calls for the Armory to be maintained consistent with the Secretary of Interior standards for historic preservation. It also specifically references those elements of the Armory building which were critical in its receiving its designation with the National Register as being specific objects to be preserved and maintained consistent with the Secretary of Interior standards. Under the existing covenant the Pennsylvania Historic and Museum Commission is given the task and power to enforce the promises made in the covenant. The question then came what would that enforcement look like if they have 7 to 800 properties that are covenant properties that they do manage and oversee. The concern then became how can the City maintain oversight, how can they be sure that the Bureau in Harrisburg would maintain oversight. The existing covenant says that the Pennsylvania Historic and Museum Commissions power to enforce is non-exclusive and is in addition to any other that may exist by law or contract. Solicitor Spirk noted the focus then became can we establish by contract that the City can be an additional enforcer, that the City can maintain the same enforcement power under that covenant, those promises that were made to follow the Secretary of Interior Standards and to maintain the structure and to preserve it. He and the attorney for the developer entered into discussions about that and we were able to secure their agreement to add language to the covenant so that the City would have the exact same power to enforce those exact same promises going forward as with the Pennsylvania Historic Museum Commission.

Dr. Van Wirt stated this is a fairly broad power. It is defined as the City, so the City could be by definition the Mayor's Office or it could be City Council.

Solicitor Spirk noted it is the Administration.

Dr. Van Wirt mentioned that people could come to Council with concerns and we would have oversight as well in terms of making sure that the Armory is maintained.

Solicitor Spirk explained that by law it would be the City Solicitor's office as general superintendents in charge of all legal matters of the City; however it got there, eventually if and when the City went to court to enforce it, this would be through the City Solicitor's office by whatever agency that the Administration chose.

Dr. Van Wirt queried if he spoke to the developer's lawyer and they were in agreement with this.

Solicitor Spirk stated he did, and they agreed on the language, just fairly simply and straight forward to answer one sentence, and that is to simply add the City to the same powers as the Pennsylvania Historic Museum Commission.

Dr. Van Wirt thanked Solicitor Spirk for his work on this. She added that there has not been a whole lot of forum for discussion about some of the loftier goals when we are talking about City development and City oversight of development. She wanted to bring up a few principles she thinks are important. There will always be friction between the community and developers when there is the press of economic development on a neighborhood. She thinks a boom is coming to Bethlehem and our neighborhoods are beginning to feel the crush of that boom particularly in South Bethlehem. Dr. Van Wirt stated she went to all of the Zoning Hearing Board meetings and sat there for those hours and listened to the community members with their anguish and love for this neighborhood. She understands the totally demoralized feelings that many of the community members had that were described in eloquent and rational letters that were sent to City Council. There was friction, and she does think that the community has been reasonable in their approach to this project. Dr. Van Wirt feels it is up to the City to come up with a good process that examines the impact of these projects on our communities and does its best to work with the developer to mitigate them. To this end, she thinks there should have been a parking study done to address the potential spillover from the lack of the mandated parking spots. She read the whole Zoning Hearing Board findings, and does not know how the Zoning Hearing Board can state that there are not impacts in terms of traffic and parking on the community without that parking survey. She thinks it is too late to do this and to push this project back again to the Zoning Hearing Board allows perfect to be the enemy of the good. So she thinks this is a rational compromise which we have come up with that allows the City to maintain oversight on the Armory itself and still allows the development to go forward. Dr. Van Wirt added it is not perfect but it is pretty good. She also thinks that the criterion that the City uses for selection of its development process should be examined again. She knows this is not within the bailiwick of City Council, but she thinks this is important dialogue to have in the public as a whole. She continued to say that the neighborhoods that are impacted by development must be considered in the choosing of developers going forward. For example, if the criterion for selection of this developer for this project was that they have successfully completed projects in Bethlehem before, it should be did you successfully complete a project in Bethlehem before and did you build what you said you would build. She does not think that happened here. Dr. Van Wirt stated the second part would be if you are going to ask to build future projects on City land involving City money or changes in zoning was the neighborhood that was impacted by your last project happy with what you did, and did they find the process open and transparent and fair. Holding our neighborhoods as valuable in that process is really important in injecting them in that selection process. At the City Council Meeting where the first Street Vacation Ordinance was passed a gentleman spoke and he had some words that stuck with her. Dr. Van Wirt stated he was in favor of the project but he had not spoken at the Zoning Hearing Board and he did not live in the neighborhood and she does not think he represents the feelings of the developer. He said that the neighborhood should feel lucky that this project is being built because it was crumbling. She was taken back by those words. She said she knew he was completely wrong; this apartment building should be grateful to be built in this vibrant and healthy neighborhood that is close to downtown Bethlehem and very dense. When there is the pressure of economic development in neighborhoods there is tendency to think that what is shiny and new and expensive is good and that which is humble and old and economically diverse is bad. That is exactly what we do not want to happen because when we let those forces overrun our neighborhoods we get homogenous neighborhoods with bland streetscapes and no street life and it is not what Bethlehem is known for. Dr. Van Wirt advised that our neighborhoods are original, they are historical and they are resilient, alive and they need to be protected. She thinks it is City Council's responsibility to be stewards of these neighborhoods through the economic incentives such as the Northside LERTA that has already been done and through vigilance about

the powerful forces of economic development that are threatening the integrity of our south side neighborhoods and now this neighborhood in west Bethlehem. Dr. Van Wirt wanted to reassure the citizens of Bethlehem that City Council does deeply value their neighborhoods and take seriously the responsibility of their protection and their enhancement. Your letters and your time and your input has not been wasted, they are encouraged and valued here. She concluded saying keep this up, this is your City and we owe this to you.

Mr. Reynolds mentioned that Dr. Van Wirt had said a few things that he has in his notes including the price that had been brought up about why it was \$260,000 as far as the covenant and liability as far as that covenant from an economic redevelopment point of view. The State is not flush with money that they somehow turned around and said we can give the City a discount on this property. They did their due-diligence as well and he is sure to say this is a fair price for the Redevelopment Authority to turn around. That is where that price came from even though it is not nearly what that assessed value is. Mr. Reynolds added that he does not believe that this would happen, but wondered what would happen if the property owner want to resell the property. He queried if the property would revert back to the Redevelopment Authority.

Solicitor Spirk stated yes, it would revert back to the Redevelopment Authority, and before they could convey it again, it would come back to Council.

Mr. Reynolds believes the same thing happened with property on the north side a few years ago. Mr. Reynolds continued to say regarding measuring the value of economic development, we had a Committee Meeting tonight where we discussed the reporting process for an Ordinance that he introduced last year called F.A.I.R., which looks to track the benefits of these incentives so we can really get our hands on the value of these incentives and programs to know the benefits. It is complicated. Those reports will be done every year and allows the Community Development Department to weigh in on whether or not these incentives are working, knowing what the value of these incentives are in our community. He pointed out this is his eleventh year on City Council, and before that he watched and listened as many of our valuable projects came through the redevelopment process. If we did not have those incentives, such as the TIF on the south side, there would be no Steel Stacks, and we would not have seen a lot of that development. One of the things that this program allows for is for the Community and Economic Development Department to weigh in on what effects these programs have on neighborhoods and the community. Mr. Reynolds added also if there is a benefit to a certain neighborhood. He noted that Dr. Van Wirt had talked about the market rate apartments that are close to our downtown. There is a benefit to that and the one thing we heard in the past is that business owners on Main Street and in our downtowns want people living in the downtown areas. They want more people living down there that can be more customers and bring vibrancy to the business neighborhood. The last time we had talked about that Ordinance, we tried to limit the uses on our main business districts to ones that have a certain amount of liveliness to them. Mr. Reynolds noted we had a robust conversation today with the complete cooperation of the Administration about going forward and how we will track the benefits of that. Also, the idea that things like LERTA and what we can do for our neighborhoods is why they have the Northside 2027 program. We will be looking in the next few weeks for potential consultants to come in and help to run the public process. That would be to go into these neighborhoods and look at what they do and do not need. Mr. Reynolds noted from the beginning about the biggest thing by far is how do we reuse the Armory, that is what this process was about. He sat down with the neighbors a few times and he has been to several of these meetings. The last time when he voted for the street vacation he said if he thought tabling the street vacation would increase the likelihood we would find a use

for the Armory sooner rather than later and find a way to protect the Armory, he would do that. He referenced his comment at a previous Council Meeting regarding the practicality of finding someone that wants to use the Armory and then having to go back to the Zoning Hearing Board. He queried whether the developer would have to go back for the use of the drill hall and Armory.

Ms. Karner stated that is her understanding of it.

Mr. Reynolds is hopeful that whatever use goes in there will be a limited parking liability. He heard different ideas that there would be certain shared spots used for whatever use would be in the Drill Hall that would be shared. He congratulates Dr. Van Wirt and Council Solicitor Spirk in working together with Mr. Hanna and the Redevelopment Authority to bring some of that enforcement to the municipality. This provides another step that helps us to accomplish the big goals. Mr. Reynolds heard from people over and over again how important it is to protect the Armory, and that whatever development takes place tied to an Armory that is developed in a way to maintain its historical significance and allows for that to stand for as how many years Bethlehem is around and in the future. He will be voting for this street vacation tonight.

President Waldron noted that comments from the neighbors regarding their concerns are valid and are in the best interest of the neighborhood they want to maintain, which he also calls his neighborhood because he lives a block and a half from the Armory. He thinks there are two issues; the end usage of the Armory and how can we be sure it is maintained and protected until that usage is presented. He thinks this small change that Dr. Van Wirt and Solicitor Spirk worked on will be just that tool that we need to give the residents a piece of mind that the City will stand behind it and protect the Armory and make sure that it is redeveloped properly. President Waldron informed the other concern that we heard frequently is parking and the concern about the shortage of parking is not one that he shares. He spends a lot of time in the neighborhood and walking his dogs at 5:30am in that neighborhood, and would say he would be jealous where he is at Second Avenue and Market Street for the parking situation that is currently at Second Avenue and Prospect Avenue. He counted conservatively about 25 available spaces in that area. If you came up to his block at Second and Market you would probably find one or two. He saw a lot of extra parking at Second and Prospect, and expressed if you went up Prospect Avenue and made a left on Rauch Street, there were probably about ten parking spots above the proposed development as well. President Waldron thinks there is surplus parking that is built in already, and he does not see the potential for the shortage that many people are feeling could happen. He thinks the neighborhood could absorb any parking overflow that is not available for off street. Filbert Street is kind of a throw away street, and no one has brought that up as a concern. It is just the narrowing of Second Avenue, which he thinks makes sense from a safety point of view. President Waldron mentioned that Second Avenue is a thruway from Broad Street to the south side and many people come down that road often at 40 to 50 mph and narrowing that street will help in a traffic calming measure. He will welcome that because he has young children who are starting to explore more than we would like. President Waldron thinks this street vacation is a positive move for the neighborhood as far as the narrowing of Second Avenue, and this project in the long run will increase the walkability and vibrancy of the neighborhood. He noted he welcomes those new neighbors who will be in his neighborhood, as well as many who spoke this evening. President Waldron stated he will be supporting this Ordinance and ultimately he will be very interested in what the proposed development of the Armory will be. He thinks the City will have a tight eye on that as well, and will go to bat for the neighbors to make sure that something goes in there that fits the usage, has a low impact, and is positive.

Voting AYE: Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt, and Mr. Waldron, 6. Abstain: Mr. Callahan, 1. Bill No. 2 - 2018 now known as Ordinance No. 2018-08 was adopted on Final Reading.

9. NEW ORDINANCES

None.

10. RESOLUTIONS

A. *Authorizing Contract – D’Huy Engineering Inc.*

Mr. Colón and Mr. Martell sponsored Resolution No. 2018-056 that authorized a contract with D’Huy Engineering Inc. for the Wastewater Treatment plant Building Envelope Improvements.

Voting AYE: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt, and Mr. Waldron, 7. The Resolution passed.

*Motion – Considering Resolutions 10 B through 10 F as a group*

Ms. Negrón and Mr. Martell moved to consider Resolutions 10 B through 10 F as a group.

Voting AYE: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt, and Mr. Waldron, 7. The Motion passed.

B. *Certificate of Appropriateness – 324 South New Street*

Mr. Colón and Mr. Martell sponsored Resolution No. 2018-057 that granted a Certificate of Appropriateness to apply lettering and badge emblem on the inside of the storefront glass window and door of the new Police substation at 324 South New Street.

Mr. Reynolds queried where this Police Substation will be.

Police Chief Mark DiLuzio explained on the west side at the parking deck on New Street there are two small offices built into the parking deck. One is the South Side Arts District and the Police substation is right next to it. This will be a joint Lehigh University Police/ Bethlehem Police substation in the parking deck. He expressed because this is an historic area we wanted to do this the right way and not put the wrong lettering up, so that is why they have this Certificate of Appropriateness.

Mr. Reynolds mentioned that this is a good location for both of those uses and they will certainly add to the neighborhood.

C. *Certificate of Appropriateness – 324 South New Street*

Mr. Colón and Mr. Martell sponsored Resolution No. 2018-058 that granted a Certificate of Appropriateness to add window cling signage of the business logo on the inside of the storefront window at 324 South New Street.

D. *Certificate of Appropriateness – 21 East Third Street*

Mr. Colón and Mr. Martell sponsored Resolution No. 2018-059 that granted a Certificate of Appropriateness to install a new sign on the rear façade of the building at 21 East Third Street.

E. *Certificate of Appropriateness – 12 West Fourth Street*

Mr. Colón and Mr. Martell sponsored Resolution No. 2018-060 that granted a Certificate of Appropriateness to install new signage reflecting the new business logo at 12 West Fourth Street.

F. *Certificate of Appropriateness – 13 West Morton Street*

Mr. Colón and Mr. Martell sponsored Resolution No. 2018-061 that granted a Certificate of Appropriateness to build a new mixed-use 4-story building, with three levels of residential over one level of retail at 13 West Morton Street.

Voting AYE on Resolutions 10 B through 10 F: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt, and Mr. Waldron, 7. The Resolutions passed.

11. NEW BUSINESS

*Finance Committee Meeting/Medical Marijuana/Street Vacation*

Mr. Callahan mentioned that the Finance Committee will be meeting on Tuesday, April 3, 2018 at 6:30 pm in Town Hall and the subject will be Year-End Budget Adjustments.

Mr. Callahan thanked Mr. Riedy for coming to this meeting tonight. He had not really considered what Mr. Riedy spoke about tonight but expressed prior to Pennsylvania legalizing medical marijuana his wife had cancer and fought that for five years before she passed away. There are three prescription medications they can take for being nauseous, which generally do not work. He recalled a nurse asking his wife if she ever smoked marijuana since it was known to help provide relief. He related that his wife started smoking marijuana towards the end of her life and started gaining some weight and had a little bit better quality of life. Mr. Callahan pointed out that he is completely against drug use, but having lived through this experience, he would support Mr. Riedy and his committee. He does think that medical marijuana uses are legitimate, especially for cancer, glaucoma, for seizures for children, and many other illnesses. He is not for recreational marijuana use, but there are definitely medicinal uses for it. Mr. Callahan read in the newspaper that the City of Easton considered passing an Ordinance to make it a misdemeanor for possession. He would be supportive of passing that in Bethlehem. He does not know what the ramifications are and noted he would like to speak with Chief DiLuzio about this. He heard it is a detailed process to get the prescription card for medical marijuana. Mr. Callahan would hope that if someone went through that process and is a legitimate medicinal marijuana user, that they are not being harassed by the Police Department. He added he knows the Police Department and the Chief are thoughtful and responsible in their duties.

Mr. Callahan has never had a discussion with anyone on this Council about the street vacation that was voted on tonight. He noted that his brother, John Callahan, has taken some shots along the way and he can say without a doubt that there is no one in this City that loves this City more than his brother. He added that probably as Mayor he did more to preserve historic sites in the

City of Bethlehem, whether it was the Steel Stacks or some of the buildings on the south side. He pointed out preservation of the Mount Airy neighborhood that Ms. Toulouse lives in was created and proposed by his brother. That was passed by Mr. Donchez and he believes that Mr. Reynolds was also on Council at that time. Mr. Callahan stated his brother is totally about preserving the things we all hold dear to our hearts in Bethlehem and he just wanted to make that comment. Mr. Callahan noted that he grew up in and spent a lot of time in that neighborhood. He recalled Kings Seafood Restaurant that was located across from the Armory. He remarked that portion of Second Avenue is dangerous because of how wide it is, and President Waldron is correct in talking about the speed on that road. Regarding the process as how it went through the Authority; there was an extensive process and a bidding process.

Ms. Karner stated it was not a bidding process like you typically think of as it relates to public works bidding. It was an RFP that was actually done by the Redevelopment Authority, not the City. They have tremendous autonomy in the way they crafted that process and so they issued the RFP and there were responses that were evaluated and vetted.

Mr. Callahan asked if it is safe to say that one of the other top RFP's consisted of high density low income housing.

Ms. Karner informed she does not recall one being purely low income housing. There were responses that included a mix of affordable housing if that is what Mr. Callahan is referring to.

Mr. Callahan thought it was a higher density application.

Ms. Karner stated yes, but it was not low income.

12. ADJOURNMENT

The meeting was adjourned at 8:38 p.m.

ATTEST:

City Clerk