

**COUNCIL MINUTES  
DECEMBER 17, 2008**

1. Invocation: Julio Guridy

2. Pledge to the Flag

3. Roll Call

Mr. Donovan, Ms. Eichenwald, Mr. Guridy, Mr. Phillips, Mr. Schweyer and Mr. D'Amore.  
Mr. Howells was absent.

4. Courtesy of the Floor

Dan Mest said he was offended when Kim Beitler came up to the podium and said she represents all the neighborhood groups. They had a vote in their neighborhood group and voted out of the President's Council. She does not speak for all the presidents of the community groups. He supports Mr. Donovan's amendment to give \$60,000 to help the community groups to fund things, i.e., Easter egg hunts, park projects, etc.

Mr. Phillips said he understands if you withdrew from the President's Council, but with the history of the crime watch groups in Allentown, the President's Council does speak for the crime watch groups. He feels she did have the authority to speak for those who are still under that umbrella. You should address it to Kim.

Mr. Mest asked who is in charge of the community groups? The President's Council? No, they aren't.

Mr. Phillips said crime watch groups answer to the Police Department. They have a crime prevention officer. The crime watch groups answer to the President's Council, if they choose to be part of that organization. That has always been the procedure for the City. He was a crime prevention officer for about 10 years.

Mr. Mest said he spent the afternoon with the crime prevention officer. He never gave him any indication that he was in charge of anything.

Mr. D'Amore suggested the captain in his PSA be the person to report to.

Louis Hershman, 405 Gilmore Streets, said a woman approached him with a miscellaneous billing she received. She asked the City why she was being billed. The City agreed, she shouldn't have been billed. 15 years later she received another bill with a lien on her property. The City is going back 30 years on this billing. Who keeps receipts for 30 years? Normally it's 7. There is no appeal process. When is the agreement with LCA going to be made available?

Ken Bennington requested the name of the woman who received the bill with a lien on her property.

Mr. D'Amore said if an issue goes back that far, there has to be some accommodation for that.

Mr. Bennington said there will be a Committee of the Whole meeting on January 7<sup>th</sup>, at 6:30 PM, where the LCA agreement will be discussed, and hopefully will be voted on that night.

Mr. Hershman asked if the consultant will be here also?

Mr. Bennington said he will be there to discuss it.

Mr. Hershman asked how much are the pension funds down for the year?

Mr. Bennington said Mr. Hilliard is off today, and he doesn't have that answer at his fingertips.

Mr. Donovan said about a month ago it pretty much followed the market of being down at that time. Several of our management funds performed slightly better. The losses were not as severe. We have not received an update since the 19<sup>th</sup>. There's a meeting on Friday to deal with other pension business. We will probably get an update then. It's going to affect our MMO, but the

market is bouncing back. A lot of our pensions are for the long term, so there's cash there. The question is will the market bounce back over the next year to affect the MMO.

Mr. Hershman said the personnel code will be coming up for discussion.

Mr. Donovan said that will be reviewed in the Administration Committee.

5. Approval of Minutes: November 15, 2008

6. Old Business: None.

7. Communications:

Mr. Donovan said he has a family member who is ill and may have to step outside to take a phone call.

Mr. Phillips said he received a call from a city contractor who completed a job for the City regarding a sewage problem in someone's home. They received a bill with a service/surcharge of \$300. Is that customary?

Mr. Bennington requested the information on the contractor.

Mr. D'Amore said at 7:30 AM, there is "No Place for Hate" discussion at the Palace Center, at 6 PM in the evening; there will be an official lighting ceremony at Irving Park. They put this together in coordination with EARN President, Dennis Pearson.

#### 8. REPORTS FROM COMMITTEES:

##### **COMMITTEE OF THE WHOLE**

A Committee of the Whole has been set up for January 7<sup>th</sup> at 6:30 PM to review R104, a resolution selling water to the LCA. Public Works Committee Chairperson Guridy will chair the meeting.

Mr. Donovan asked if that's the first time they will be receiving the contract?

Mr. Bennington said he will try to get the agreement to them before that.

Mr. Donovan said he'll vote no if they get the agreement that night.

Mr. D'Amore said that's a fair statement. He's sure it's a complicated contract.

**ADMINISTRATION** – Chairperson Donovan said the Committee met on Thursday, December 11<sup>th</sup>. The next meeting will be on January 28<sup>th</sup>. They will hold their meetings the 4<sup>th</sup> Wednesday of the month.

**COMMUNITY AND ECONOMIC DEVELOPMENT** – Chairperson Schwyer said the Committee met this evening; no future meeting is scheduled. There is a resolution on tonight's agenda to suspend the rules at the appropriate time.

**PUBLIC WORKS** – Chairperson Guridy said the Committee met this evening; a future meeting is not yet scheduled.

**PUBLIC SAFETY** -Chairperson Phillips said the Committee has not met since the last Council meeting; a future meeting has not been scheduled.

**APPOINTMENTS** - Chairperson D'Amore said the Committee has forwarded many appointments on tonight's agenda.

**LEGAL AND LEGISLATIVE** – Chairperson Phillips said the Committee has not met since the last Council meeting; a future meeting has not been scheduled.

**RULES AND CHAMBERS** – Chairperson D'Amore said no meeting; no report.

##### **CONTROLLER'S REPORT**

Mr. Hoffman said he was unable to make this evening's meeting.

**Council Reform – Councilperson Schweyer** said this committee drafted legislation that will be introduced this evening. It addresses a number of the goals the committee has discussed.

**Presales Inspection Meeting – Councilperson Donovan** said he sent a draft to Council members and David Paulus. But because of budget hearings and finals at the college, he hasn't been able to tidy it up. He expects to release it to the public next week.

## **9. ORDINANCES FOR FINAL PASSAGE:**

Mr. Schweyer and Mr. Donovan moved to suspend the rules to introduce and vote on R105, Approves Filing of a Proposal for TC Salon with DCED for Prevention of Blight

### **R105**

Approves Filing of a Proposal for TC Salon with DCED for Prevention of Blight

#### ***Resolved by the Council of the City of Allentown, That***

**WHEREAS**, the City of Allentown is desirous of obtaining funds from the DCED in the amount of Two Hundred and Fifty Thousand (\$250,000) Dollars for prevention and elimination of blight under Section 4 (c) of the Housing and Redevelopment Assistance Law, as amended.

**NOW, THEREFORE, BE IT RESOLVED**, by the City of Allentown that a blighting influence exists because of vacancy of property and deterioration of property and the proposed project will prevent further blight and/or eliminate the existing influence by redeveloping the property and moving a business into the City of Allentown.

**BE IT FURTHER RESOLVED** that the TC Salon, owner of the project, will reimburse the Commonwealth for the DCED's share of any expenditures found by DCED to be ineligible.

**BE IT FURTHER RESOLVED** that the City Clerk is directed to execute a certificate attesting to the adoption of this Resolution and to furnish a copy of the Resolution to the DCED.

The rules were suspended by common consent.

Mr. Schweyer said the 19<sup>th</sup> Street Theatre District is one of the City's primary concerns. There is a tremendous amount of opportunity and momentum. The former Shanty remains the biggest impediment towards our goal to get that area going in the right direction. TC Salon is relocating their business from South Whitehall

Mr. Donovan said Frank Shipman has done a tremendous job in Bethlehem. He strongly supports this resolution. A number of them on Council and the Administration did a lot of try to ensure that a quality business would move in. He thinks this is a great example of cooperative government. No one worked harder on this than his colleague, Pete Schweyer.

R105 was approved, 6 Yeas and 0 Nays.

### **Bill 127**

Administration Sponsored: Amending the 2008 General Fund Budget to provide for a supplemental appropriation of Forty-Seven Thousand One Hundred Ninety-Two (\$47,192) Dollars from the Pennsylvania Department of Education for repairs to the Allentown Public Library.

Mr. Donovan said Bill 127 was forwarded favorably, 2-0.

Bill 127 was adopted, 6 Yeas and 0 Nays.

### **Bill 120**

Administration Sponsored: Amending the Risk Management Fund by appropriating funds for \$580,000 from the unappropriated balance of the General, Water, Sewer, and Solid Waste Funds, to cover the cost of insurance for the remainder of 2008.

Mr. Donovan said the original budget within Risk Management was \$12,120,000. Expected expenditures for the year were \$12,325,000. There will be a \$200,000 shortfall.

Mr. Donovan and Mr. Schweyer moved to amend Bill 120 by reducing the \$580,000 to \$200,000; \$133,936 from the General Fund; \$28,085 from the Water Fund; \$29,552 from the Sewer Fund; and, \$8,427 from the Solid Waste Fund for a total of \$200,000 instead of \$580,000.

The amendment was approved by common consent, 6 Yeas and 0 Nays.

Mr. Donovan said they asked Mr. Hilliard for an itemization. This seems to be a well managed fund.

Mr. D'Amore said they basically did this as an amendment to the budget for 2009.

Bill 120 was adopted, as amended, 6 Yeas and 0 Nays.

#### **Bill 126**

Administration Sponsored: Amending the 2008 General Fund Budget to provide for a supplemental appropriation of Eighteen Thousand Seven Hundred Fifty (\$18,750) Dollars; to provide for the grant from the Pennsylvania Weed and Seed Second Steps Violence Prevention Initiative Grant.

Mr. Schweyer said Bill 126 was forwarded favorably, 3-0. This initiative includes anti-bullying prevention, conflict mediation, teach to reduce tension situations. It is targeted specifically for junior high school students in the Weed and Seed area. This is the first of 4 grant initiatives from the state.

Bill 126 was adopted, 6 Yeas and 0 Nays.

#### **Bill 124**

Administration Sponsored: Amending Article 395, Community and Economic Development Fees, by including Under Section 395.07.5 "including the installation of signs and pools; include a Commercial Plans Examination Fee of \$85 for up to 500 square foot applications; increasing the maximum fee for parking lots from \$50 to \$150; removing Section 395.07.12, "Work without required permits" and moving it under its own heading, 395.12, Penalty Fees; creating a new penalty fee for excessive inspections under the new heading 395.12, Penalty Fees. The fees would be assessed for permit holders that require above and beyond 2 rough and 2 footer/ foundation inspections; the fee schedule will be as follows: if a permit holder requires a 3<sup>rd</sup> rough or CO inspection, the fee will be \$25 ~~50~~ for each permit that requires reinspection; if a permit holder requires a 4<sup>th</sup> rough or CO inspection, the fee will be \$50 ~~75~~ for each permit that requires reinspection; if a permit holder requires a 5<sup>th</sup> or more rough or CO inspection, the fee will be \$100 for each permit that requires reinspection

Mr. Schweyer said Bill 126 was forwarded favorably, 3-0. This raises the fees for parking lot permit construction. There was a \$15 incremental fee up to \$50 per \$1,000 construction cost. They are increasing the maximum fee to \$150. There is also a \$100 fine for those who do not apply for a permit to do construction work. There is also a fee structure for excessive inspections.

Todd Collins said they are also decreasing the fee for commercial plans review. The smaller projects are no longer lumped in with the larger projects.

Mr. Schweyer and Mr. Donovan moved to amend Bill 124, by adding a line to the penalty fee in Article 395.12, as follows:

2. Excessive Inspections on the same issue. In Addition to the Permit Fee set by this Schedule, the following fees will apply for inspections requested and required above and beyond Two (2) footer/foundation and Two (2) rough:

Third Inspection -	\$50 for every permit reinspection
Fourth Inspection -	\$75 for every permit reinspection
Fifth Inspection or more -	\$100 for every permit reinspection

The amendment to Bill 124 was approved by common consent, 6 Yeas and 0 Nays.

Mr. Schweyer and Mr. Donovan moved to amend Bill 124 as follows: Rough and CO inspection should be taken out, and the \$25 fees should be \$50 and the \$50, \$75 to reflect what is in the body of the text.

The amendment to Bill 124 was approved by common consent, 6 Yeas and 0 Nays.

Ms. Eichenwald said she likes the idea of a gradual increase.

Mr. Donovan asked if there was any cost analysis done in terms of what it costs to do any of these? We're matching Bethlehem, but we're low on the low end and low on the high end.

Mr. Collins said this was Bill Gibisser's idea due to his experience in the field.

Mr. Donovan said in terms of time and effort.

Mr. Collins said and the volume of parking lots that get inspected.

Mr. Donovan said he needs to sit down and understand what goes into the various fees. Some may be matching other communities and others may have an actual cost analysis behind them.

Mr. Bennington said whenever your schedule permits. We can certainly set that up anytime it's convenient for you.

Mr. Phillips asked what is the hourly wage compared to what we're charging?

Mr. Collins said the fee, like most of the other fees, are associated with the cost of the project. We're bringing this more in line with the rest of the fees.

Mr. Gurdy said he questions raising the fees when the economy is bad.

Bill 124 was adopted, as amended, 5 Yeas and 1 Nay (Phillips).

Bill 87, Sheet Metal Technician, was removed from the agenda.

Bill 96, Containers shall be placed at the Curbline not before 6:00 PM and prior to 10:00 PM, to not before dusk, was removed from the agenda.

#### **10. ORDINANCES FOR INTRODUCTION:**

##### **Bill 128**

Administration and Council Sponsored: Adopting standardized bidding policies to ensure the most cost effective securing of goods and services for the City of Allentown.

Bill 128 was referred to Administration.

##### **Bill 129**

Administration Sponsored: Amending Article 143, Police Pension Fund, by providing for the outcome of the Act 111 award on the compensation for overtime, providing for a One-time Deferred Retirement Option Plan, and deleting provisions not in compliance with the award.

Bill 129 was referred to Administration

##### **Bill 130**

Administration Sponsored: Repealing Article 112 (Public Records) of the Administrative Code of the City of Allentown and adopting an Open Records Policy for the City of Allentown consistent with Act 3 of 2008 of the Pennsylvania General Assembly, known as the "Right-to-Know Law"

Bill 130 was referred to Administration.

##### **Bill 131**

Introduced by Councilperson D'Amore, Donovan, Howells, and Schweyer: Amending Article 1742 of the Property Rehabilitation and Maintenance Code, and Article 1759, Licensing Residential Rental Units, by requiring all properties owned

by the same person to be inspected if any property is tagged as unfit for human habitation and requiring that the Lehigh-based rental agent of properties shall be legally responsible for addressing code violations at said property.

Bill 131 was referred to CEDC.

11. **CONSENT AGENDA:**

**CA-1:** Certificates of Appropriateness: 726 Chew Street; 1015 Oak Street and 436 North 8th Street

CA1 was approved, 6 Yeas and Nays.

12. **RESOLUTIONS ON SECOND READING:**

**R81**

Administration Sponsored: Encroachment for an Awning at 1227-1239 Linden Street

Mr. Guridy said R81 was forwarded favorably, 3-0.

R81 was approved, 6 Yeas and 0 Nays.

Mr. D'Amore suggested amending the encroachment resolutions to include a phrase dealing with zoning and City codes.

Mr. Schweyer and Mr. Phillips moved to suspend the rules to introduce an identical resolution to R81, known as R81A, to include the following phrase: "provided all applicable zoning and City codes are complied with."

The rules were suspended by common consent, 6 Yeas and 0 Nays, to introduce and vote on R81A.

Mr. Donovan asked if encroachments are something we rubber stamp or does Council refuse to approve them?

Mr. Bennington said you can make a decision to reject them.

Richard Young said if someone is going to apply for an encroachment that is going to block the sidewalk, they're not going to recommend it. It will come to you without our recommendation. There have been some they have not recommended. 8' becomes a zoning issue. That would require a zoning variance.

R81A was approved, as amended, 6 Yeas and 0 Nays.

**R82**

Administration Sponsored: Encroachment for an A-Frame Sign at 1518-1520 Union Boulevard

Mr. Guridy and Mr. Phillips moved to amend R82 to include the following phrase: "provided all applicable zoning and City codes are complied with."

The amendment was approved by common consent, 6 Yeas and 0 Nays.

Mr. Guridy said R82 was forwarded favorably, 3-0.

R82 was approved, as amended, 6 Yeas and 0 Nays.

**R84**

Administration Sponsored: Encroachment for a Handicap Accessible Ramp at 435 North 5<sup>th</sup> Street

Mr. Schweyer and Mr. Guridy moved to amend R84 as follows: "provided all applicable zoning and City codes are complied with."

The amendment was approved by common consent, 6 Yeas and 0 Nays.

Mr. Guridy said R84 was forwarded favorably, 3-0.

R84 was approved, as amended, 6 Yeas and 0 Nays.

**R86**

Authorizes Grant Application and Implementation of Grant for Master Planning Improvements for the West End Theater District

Mr. Schweyer said R86 was forwarded favorably, 3-0. Community and Economic Development will spend \$7500 as the City's required portion of the Master Plan. The County's portion of the \$7500 has already been approved.

R86 was approved, 6 Yeas and 0 Nays.

**R87**

Encroachment for Two Awnings for the Cosmopolitan Restaurant - on North 6<sup>th</sup> Street Side and on Court Street Side

Mr. Schweyer and Mr. Guridy moved to amend R87 as follows: "provided all applicable zoning and City codes are complied with."

Mr. Guridy said R87 was forwarded favorably, 3-0

R87 was approved, as amended, 6 Yeas and 0 Nays.

**R88**

Administration Sponsored: Encroachment for an Awning for Front Porch at 223 West Court Street

Mr. Guridy and Mr. Schweyer moved to amend R88 as follows: "provided all applicable zoning and City codes are complied with."

Mr. Guridy said R88 was forwarded favorably, 3-0.

R88 was approved, as amended, 6 Yeas and 0 Nays.

**R89**

Authorizes Disposition of Certain Records

Mr. Donovan said R89 was forwarded favorably, 2-0.

Mr. Bennington said every municipality, at the end of the year, gets rid of documents per the Municipal Records Act.

Mr. Phillips said that brings us back to Mr. Hershman's question. If we're destroying documents, do we have some backup? The Legal Department said we should be going after people who owe miscellaneous fees or back taxes. How are we going to challenge those things in court if we don't have any documentation?

Mr. Bennington said we're not required to maintain a paper document by law, then there would be no backup documentation. If we're allowed to destroy, there will be no backup.

Mr. Phillips said then how can we ask someone to pay for something 30 years ago, when we . . .

Mr. Bennington said if he had the person's name he would check into that.

Mr. Phillips said his wife paid for their water bill online with a credit card. The City sent them 7 bills and started giving them delinquent notices in 2006. They asked his wife if she had a copy of the bill. She said why would she have a copy if she paid it online? The City should have to reconcile it, not them.

Mr. Bennington said he finds it odd we would be asking for documentation.

Mr. Phillips said this is going to be a problem down the road.

Something outstanding, wouldn't get destroyed.

Mr. Bennington said how would we be able to destroy records and still maintain records and not try to maintain excessive records?

Mr. Phillips said doesn't technology provide that opportunity?

Mr. Bennington said if he's destroying documents, he wouldn't want access to those documents, so why would he want to keep a record if he's authorized . . . it's a catch 22 situation.

Mr. Phillips said if we're going to have these issues where people are coming back . . . he doesn't understand.

Mr. Guridy said it says Item, FR1, February 2002 to March 2005 . . .

Mr. Bennington said it may be a typo.

Ms. Eichenwald and Mr. Donovan moved to table R89.

Mr. Donovan said they can't amend it without confirming it's a typo.

R89 was tabled by common consent, 6 Yeas and 0 Nays.

### **13. NEW RESOLUTIONS:**

#### **R91**

Council Sponsored: Amends Council Rules and Regulations by Realigning the Committee System

R91 was referred to the Committee of the Whole, January 7<sup>th</sup>, at 6 PM, along with R104.

#### **R92**

Council Sponsored: Support Drum and Bugle Corps fundraising efforts

Mr. Donovan said he was approached by someone who is associated with the Allentown Base Drum and Bugle Corps. They have been approved to march in the Inaugural Parade in Washington, DC.

R92 was approved, 6 Yeas and 0 Nays.

#### **R93**

Administration Sponsored: Planning Commission: John Ingram and Mark J. Buchvalt

Mr. D'Amore said this was referred to Council with no objections from the Committee.

Mr. Phillips suggested all appointees who are appointed to committees be notified to attend the Council meeting.

Mr. Donovan said he normally likes to vote on recommendations individually but because we have so many this evening, he'll pass on that request.

R93 was approved, 5 Yeas and 1 Nay (Phillips).

#### **R94**

Administration Sponsored: Police Civil Service Board: Sandra Easterling

R94 was approved, 5 Yeas and 1 Nay (Phillips).

#### **R95**

Administration Sponsored: Recreation Appointments: David M. Howells, Sr. and Raymond O'Connel



Mr. Phillips and Mr. Donovan moved to amend R95 by splitting the resolution. One person is out of town and one person is not here.

Mr. D'Amore said R95 will be David M. Howells, Sr.

R95 was approved, 6 Yeas and 0 Nays.

**R106**

Administration Sponsored: Recreation Appointment: Raymond O'Connell

R106 was approved, 5 Yeas and 1 Nay (Phillips).

**R96**

Administration Sponsored: Shade Tree Commission: Matthew Tuerk and Christian Brown

Mr. Schweyer said the new members are due to expanding the Board of the Shade Tree Commission.

R96 was approved, 5 Yeas and 1 Nay (Phillips).

**R97**

Administration Sponsored: Housing Authority Appointment: Julio A. Guridy, John W. Sherry, and Joyce Marin

Mr. Phillips and Mr. Donovan moved to amend R95 by splitting the resolution.

Mr. D'Amore said R97 will be Julio A. Guridy.

R97 was approved, 5 Yeas and 1 Abstention (Guridy).

**R107**

Administration Sponsored: Housing Authority Appointment: John W. Sherry and Joyce Marin

Mr. Bennington said Joyce Marin is on vacation.

R107 was approved, 4 Yeas, 1 Nay (Phillips), 1 Abstention (Guridy).

**R98**

Administration Sponsored: Arts Commission Appointments: Peter Lewnes and Gregory J. Perry

R98 was approved, 5 Yeas and 1 Nay (Phillips).

**R99**

Administration Sponsored: ACIDA Appointments: Gerald Alfano and David W. Olson

R99 was approved, 5 Yeas and 1 Nay (Phillips).

**R100**

Administration Sponsored: Noise Control Appointments: Elwood Elliott and John Page

Mr. Phillips said he would prefer if all of those who sit on the Authorities, Boards and Commissions be citizens of Allentown.

Mr. D'Amore said on the issue of John Page, he concurs with him. Mr. Page is an audiologist and brings an expertise to the issue that the committee felt was relevant, and therefore, overrode the question of residency.

Mr. Guridy said he also agrees with Mr. Phillips.

Mr. Phillips said he does respect that. We have made exceptions for those who have expertise who we can gather from within our own population.

Ms. Eichenwald said in the case of Mr. Page, he has a very specific set of skills that are hard to find.

R100 was approved, 5 Yeas and 1 Nay (Phillips).

**R101**

Administration Sponsored: Vacant Property Review Board: Bernadette B. Kuebler and James F. Villaume

Mr. Schweyer said he's been serving on that board with Bernadette and Jim since he's been on City Council. They are outstanding members and take it seriously and show up on a regular basis. He gave the Administration a name for a potential alternate. He's been working with the Redevelopment Authority to identify somebody who lives in the City who is a real estate developer. It hasn't gone anywhere. He's hoping at some point they will follow up on it.

R101 was approved, 5 Yeas and 1 Nay (Phillips)

**R102**

Administration Sponsored: Building Code Board of Appeals: LeRoy C. Shankweiler, Jr. and Benjamin Walbert

R102 was approved, 5 Yeas and 1 Nay (Phillips).

**R103**

Administration Sponsored: Human Relations Appointment: Raymond D. O'Connell

Mr. Donovan said he assumes Mr. O'Connell is an appointee because of his background with the school district. Ms. Eichenwald said that's correct.

R103 was approved, 5 Yeas and 1 Nay (Phillips).

**R104**

Administration Sponsored: Authorizes the Administration to Execute a Water Supply Agreement with the Lehigh County Authority

R104 was referred to the Committee of the Whole and will be chaired by the Chairperson of Public Works, Mr. Guridy.

**14. NEW BUSINESS:**

Mr. D'Amore wished everyone a happy holiday. We will see you in the New Year.

**15. GOOD AND WELFARE:** None.

**16. ADJOURN**

Mr. Guridy and Mr. Schweyer moved to adjourn the meeting at 9:15 PM.

Michael P. Hanlon  
City Clerk