

**Julio Guridy, President**  
**Ray O'Connell, Vice President**  
Frank J. Concannon  
Jeanette Eichenwald  
Cynthia Y. Mota  
Michael Schlossberg  
Peter Schweyer

**Allentown City Council**  
435 Hamilton Street

Allentown, Pa. 18101  
AllentownPa.Gov



**COUNCIL MEETING MINUTES**  
**March 7, 2012**  
**COUNCIL CHAMBERS**

**Council Meeting – 7:30 PM**

**1. Invocation:** Mike Schlossberg

**2. Pledge to the Flag**

**3. Roll Call:** Concannon (part of the meeting), Guridy, Eichenwald, Mota, O'Connell, Schlossberg, and Schweyer

Dale Wiles represented for the Solicitor's office.

**4. Courtesy of the Floor**

Mr. Weston Vogel, does not live in Allentown, stated that there was an article in the newspaper that was a hot button for him regarding methane.

Mr. Guridy stated if you are speaking about Delta Thermo, you have to wait until we get to that on the agenda.

Mr. Kenneth Laudenslager, 721 W Cumberland Street, stated that at the end of the budget season, City Council passed an amendment for crossing guards' raincoats and uniforms. He stated that the person in charge of the crossing guards submitted it and did not hear anything and the uniforms and raincoats will benefit.

Mr. Fran Dougherty stated that this is the first time he heard about a delay. He stated that he will look at it tomorrow morning and get a requisition number and whether it is a log-gam, with the police or procurement.

Ms. Angela Mitchell, buyer, stated that she wanted to give Council an update regarding the blighted development of the redevelopment property located at 556 No. 4<sup>th</sup> Street, Allentown. As of Friday, February 17<sup>th</sup> the sellers decided that they do not want to sell to her or reimburse her money spent on the inspection. She met with Fran Dougherty and Dave Paulus and it was decided that Mr. Paulus would contact Ms. Peralta one more time about gaining access to the property. What could be done in the future to prevent this from happening again to someone else? She has to pursue civil legal matters to get her return on her investment.

Mr. Guridy deferred to Mr. Dougherty for a comment.

Mr. Dougherty stated that he and Mr. Dave Paulus met with Ms. Mitchell last week. Prior to that meeting he had a discussion with one of the board members of the RDA. They sent it to the city for discussion. It is a dispute between the buyer and seller and yes, there was an issue with the inspection and the difference is between a private inspector that Ms. Mitchell hired and the inspection that the city goes in, our team. There

were discrepancies and that is why Mr. Paulus talked to the owner. There were a number of issues of a cosmetic nature. We can't do anything because it is an issue with a buyer and seller

Ms. Eichenwald stated that it goes deeper than that. The problem exists with the system itself. She stated that it is her understanding in previous times when the orange blighted property sticker was there, the property was absolutely considered blighted. Now it is her understanding that there are many reasons that the orange sticker is on the property and that the whole process has not gone through and that is what creates confusion. She urged the administration to reevaluate the process of declaring a property blighted and at what point it becomes available for purchase.

Mr. Dougherty stated that this was a transaction and the RDA had this property, it was rehab and sold to a developer and the developer was now selling it on the open market. Ms. Mitchell loved this house and for one reason or another it did not work out and he feels bad for her, but there are other houses and he hopes she keeps working through the process. He stated that what Ms. Eichenwald is talking about of blight is something he needs to get his hands around.

Ms. Mitchell stated that she is concerned about the housing code violations that are still existent. There were a total of eleven. It has health environmental issues like mold and it is an epidemic in the area and within the Lehigh Valley and is not being addressed in this area. This was a redevelopment property and was supposed to be brought up to code and was not.

Mr. Donovan congratulated Mr. Guridy on his new role. He stated that he would like to speak on the downtown project, they know that he supports it, but not in its current form. City Council and the AEDC know that he has advocated this project not only for economic development and impact, but also for the fantastic opportunities for community development that was possible, opportunities that seemed to be ignored. To be clear, the millions of dollars spent on this will be a shot in the arm for the city, but who benefits, the small cadre of developers, the politicians to be able to cut a ribbon and move on to other roles while 118,000 people in this city look around and say where are our benefits. He recognizes that arena is the catalyst for the overall project. Any strategy associated with this project must incorporate greater emphasis on human and social capital.

Mayor Pawlowski stated that Mr. Donovan knows more than anyone since he sat on the AEDC board that there is a redevelopment agreement that has been in place, it's been developed with not only with the lease agreement with the Brooks Group, but will be in place with the contract. That entails everything he is talking about. Making sure we have minority business hiring, educational programs, a percentage of folks that are hired in the community, making sure the facility has a percentage of folks from the community. All is in the community development agreement and a good portion of that is through the construction project and they have not picked yet. It will be put into place. He stated that he appreciates his comments, but is confused.

Mr. O'Connell asked about the construction manager and a timeline in announcing that. He stated that he heard Butz, Turner and one more.

Mayor Pawlowski stated that they are drilling down on numbers and narrowed it down to several firms. They are getting an as build price and they are working simultaneously working on the final drawing and pricing out the final price. He stated that he was not involved in the process, but will talk and find out for Mr. O'Connell.

Ms. Helen Cordero representing Juan Velazquez, 343 N Tenth Street, stated that on December 29<sup>th</sup> a water main break occurred on their street and a hole opened up across the street from their home. The

water main break forced approximately three to four feet of water into their basement causing structural and foundation damage. The city workers secured the cemetery in two days. It did not do that to our homes, instead we were displaced and white stickers were stuck on our homes stated that they were structurally unsafe and inhabitable at the time. Our insurance company has denied our claim. Their position is that the incident began outside the perimeter and at the perimeters of our home. They feel we have to seek restoration and repair from the city. We asked that you assist us City Council members and Allentown administration in the negotiation of the restoration and repair of our homes and help us find answers.

Ms. Eichenwald stated that she was told after the Friday meeting that Ms. Cordero was pleased with the meeting, is that not the case that some effort was going to take place as part of the administration.

Ms. Cordero stated that the administration is not working with them. They are finally acknowledging our situation and helping them find answers. They are working with us in good faith. We don't want to be forgotten and more importantly we don't want our homes torn down as they initially said to them.

Ms. Eichenwald asked Ms. Cordero is she more optimistic now that they would be assistance.

Ms. Cordero stated yes.

Mr. Gurdy stated that they received the letters and the City Council is concerned about what is going on. He gave the letter to Mr. Dougherty and that is why the meeting last week occurred so swiftly. He met with the Mayor on yesterday and discussed the issue and concerned what you said. You will not be left out there. The city will try to support you as much as the city can.

Mr. Fulton Thornton, Democratic Representative, stated that his first comments is on the neighborhood watch group of 171, 172, 173 that is the area around Muhlenberg College and he received a lot of complaints and he talked to the neighborhood watch group that a home between 23rd and 24<sup>th</sup> Streets on Tilghman across from the JCC the homeowner could not sell the home and somehow he managed to get it leased to the college students from Muhlenberg College, in that block is an elderly community and most people are in their 70s, 80s, and 90s. Their complaint now is the noise is out of control and they are afraid to leave their homes at night. People had copper drain spouts and they are now gone. He stated that he knows there is an ordinance in the City of Allentown that you cannot work on cars or even change a tire on the streets of Allentown. You cannot park your car on the grass unless it's a concrete slab or macadam slab. He stated that his business at Chew and Liberty two blocks from the national disaster we had a year ago. Complaints he is getting from the business people at the strip mall is that the fire zone during the course of the day you can't walk across the street because cars are parked along the fire zone.

Mr. O'Connell asked Mr. Thornton if he brought these concerns to the police department. He stated that there is an overlay district by Muhlenberg College that is strictly enforced. He stated that he thinks it is no more than four unrelated people that could live in the apartment. It has to be approved by the City of Allentown.

Mr. Thornton said yes, the police department knows and has been in the area.

Ms. Eichenwald stated that Muhlenberg is interested that their students are good citizens and she thinks it is something that they need to notify Muhlenberg College.

Mr. Thornton stated that he spoke to Muhlenberg's control officer and they are doing a good job and so is the Allentown police department, but the comments in the newsletter asked what are we going to do about the increase in problems that we did not have a few years ago.

Mr. Dwayne Glover, Resident of 345, stated that he is a part of the water main break and is here today to add to what Ms. Cordero stated. It took them two months to get here and if they did not send out letters the council and our representatives to find out answers. We have been displaced and been in a hotel for two months. Some insurance is asking questions we can't get from the city which is public information. We just want answers and through Mr. Dougherty and certain Council people you can stay on that and help us. We don't want to lose our homes. They are getting burglarized and broken in, and all of his copper piping is gone now.

Mr. Guridy stated rest assured that they are looking into it and they are with him on this.

Mr. Dougherty stated that he would like to review to council the action items that the city has taken since first meeting with Ms. Eichenwald and his subsequent meeting with the mayor and the affected homeowners and the meeting with councilman Schweyer. He stated that chief among the steps is to have one centralized person as the communication link of the city and the homeowners and that person is Mr. Duane Tolson. Duane's tasks are to be the facilitator and the transferee of information. We have begun the first order of business was getting permission from out homeowners to allow our structural engineer from Pennoni on our expense to go in and do a structural engineering study of the foundation of the home. We cannot proceed anywhere further until we have the structural engineer. In the meantime they have been unduly straddled by administrative bureaucracy which we are now taking care of. One homeowner was charge an exorbitant amount of money for a lock and twelve screws and we are now taking care of that with the contract. They have received some letters from the county about the reassessments about their homes and another letter of reassessment after the event. He stated that the city with the help of Mr. Schlossberg and Mr. Schweyer agreed to interact with the Mr. Cunningham with the county to help facility a conversation and misunderstanding that they believe happened between the assessors and the homeowners. Going forward they already made safe street which they pointed out needed some further safety devices. He stated that Mr. Messinger went out there and he forwarded the pictures to City Council and they saw the before and after pictures and it is quite a dramatic improvement. He is intimately involved in the process and they are making progress.

Mr. Ernie Atiyeh, president of the Allentown Presidents' Council, stated a couple months ago there were people that spoke before us and spoke about the Morning Call newspapers that are being distributed on the weekends and thrown all over the place. This is a major problem that he hears at many neighborhood meetings. He stated that they discussed getting legislation as far as litter, have we pursued that.

Mr. O'Connell stated that Ms. Eichenwald at the last meeting when that gentleman came around 15<sup>th</sup> and Chew or 16<sup>th</sup> and Chew. It is litter and is not only the flyers, it's the phonebook too. They don't get out of the vans, they just throw them on the street and people are receiving those weekend Morning Call things that get the Morning Call every day and should not be receiving them. He stated that Ms. Eichenwald asked our solicitor if there was an ordinance or bill legislation out there that they could make sure that the Morning Call does it correctly and put it on the front step. It is a mess throughout the city.

Ms. Eichenwald stated that she did speak to Ms. Fruhwirth who is in the process of drafting legislation. It is definitely litter and she is on the case.

Mr. Guridy stated that they will allow people that outside to speak under courtesy of the floor on an issue that is not on the agenda. Once people speak on issues that are not on the agenda they will ask people that are outside if they want to speak on something that is not on the agenda under courtesy of the floor.

Mr. Gerald E. Hodge, 339 N. Tenth Street, stated that it has been two months since this tragedy occurred and they are very grateful that they made progress as far as communication with the city as well as several councilmembers they met personally, privately, however, they continue to receive notices and invoices. She received some today herself. She stated that her home has been broken into and robbed twice and she lost sentimental jewelry of her mom's and personal effects and stuff that cannot be replaced. What the sinkhole did not do, they are further being victimized by this element that is within the community that seems to appreciate the fact that their homes lay vacant and these huge signs the beacon them to come and help themselves. It is very disquieting and she finds herself losing sleep at night and she is afraid to turn off her phone to charge it at night because she got a phone call 6 AM in the morning and usually her phone is off. Her and her family is in a shelter and is displaced. The shelter stay, is a sixty day stay which will end on Friday and she has yet to hear from Mr. Paulus about the conversation and she is concerned because of the other avenues she has been pursuing as far as housing or semi-permanent housing in the interim while this issue is being resolved has basically fallen through. This is a major concern and she would appreciate that matter being addressed.

Mr. Schlossberg asked Mr. Dougherty is there something that they could do to better secure the homes or have an opportunity to allow the people to enter the homes and remove their valuables.

Mr. Dougherty stated that he can explore the opportunities with the police department whether that means an inspection of their door locks or patrols. The other issues she raised were the concern of the Sixth Street Shelter which she currently calls home. Mr. Tolson has been in contact with the Sixth Street Shelter to work with them.

Ms. Hodge stated that she received a note from her case manager letting her know that one option they were looking into New Horizons in Bethlehem is not an option and the other option they were looking at for the Seventh Street apartment is basically a lot of competition for one space. She is willing to do the necessary route to do the necessary things that are required to apply and position herself for entry which requires additional information. She stated that she has her associate's degree as well as her bachelor's degree, but it requires an educational piece to qualify for that housing and she was looking to pursue her master's degree at Lehigh University in order to satisfy that requirement. She is a single mom with two kids and we are active in church and schools events and activities. Living in a shelter, she is thankful for the opportunity that it has afforded them, but there are many restrictions like a 9:00 PM curfew that she is very nervous she is going to miss.

Mr. Gurdy stated that Mr. Dougherty is going to follow up on that especially on what happened with Mr. Paulus and why he did not reach out again.

Mr. Dougherty stated that he will follow up with Mr. Tolson tomorrow to see how his outreach has gone with the shelter and other places.

Ms. Eichenwald stated that she would like to add it is a tragedy upon a tragedy. The first tragedy could not have been avoided, but this tragedy could have been avoided had we reached out to the families sooner, provided them with better care and better information. Life is all about learning lessons and unfortunately you had to teach this lesson. She stated that she hopes that in the future in something like this occurs that never again a family has to come here and plead with us on assistance that is their due.

Mr. Edward Tucker, former resident of 341 N. Tenth Street, stated that he first saw the house when he was invited there for brunch and it was love at first sight and he told the previous owner if she ever decided to move that he would be her first call, he was and he moved at 341 in October of 1989. The house was extensively renovated by a previous owner. The renovations included stain glass doors on the upper

kitchen cabinets and punched in on the lower cabinets, marble and a corian bathroom with Jacuzzi tub all added to the house uniqueness. He stated prior to the renovations, his house had two additions making it the largest of the single family dwellings on the block. The kitchen had a separate staircase on the second floor and the living room had a loft to the second floor that made the house feel open light and airy and stark contrast to the brick and mortar of the construction. His house felt like his castle and his fortress. In more than twenty-three years residing in this house, it has been featured in design section of the Morning Call Sunday Edition, was on two house tours and was nominated as property of merit three times and a finalist in 2006. Every cent he could afford to spare was spent on maintaining his house. He replaced every window making sure to respect the façade and had his garage rebuilt from the concrete slab on up. If you like me, enjoy the space you call home then you understand the desire to make your home the best and most comfortable it could be. He stated that his years on Tenth Street was a labor of love and when the neighborhood started its decline many of his friends moved out and he stayed because the house and its character was recent enough to weather any changes around him. It was home to him for nearly half of his fifty years. He spent twenty-three years thinking that his fortress was strong and secure and on December 29<sup>th</sup> his fortress walls were shattered when the water main pipe directly in front of his home ruptured and filled his home with at least four feet of water and started a chain of events that resulted in four families that have been displaced through no fault or negligence of our own. It has let us here before your attempting to convey to you the sense of loss and despair there that they experienced and the impact on our lives. To say my life has been devastated does not explain the depths of my knowing of loss and despair and to remember the beautiful home it was and to see the pitiful broken shell it has become is needless to say crushing and debilitating. The negative impact that it has on my life is too many to name and luckily he was able to move in with family members on Ott Street with our dog while our four cats stayed at a different relative close by. The amount of work he missed has been extensive and he has not been able to do the necessary travel for his job because of the uncertainty of what the future holds. He stated that he has been staying at work due to bouts of a chronic illness and the symptoms have been triggered by stress. His employment relies on his creative talents and creativity is hard to come by when your mind is consumed by the enormity of the loss you have experienced. He could paint a picture of loss, disruption and distress experience by anyone who ever suffered loss knows the unwelcomed change thrust on you by faith and circumstance. Loss is universal. No one wants it, and no one asks for it and no one thinks that they deserve it.

Mr. Dennis Pearson, president of east Allentown Rittersville Neighborhood Association, stated that this past week there was a concern about Irving Park. The gentleman before him talked about a sinkhole which destroyed his house, but Irving had a start of a sinkhole which appeared on Monday near the outfield of the baseball field and ten feet away it looked like a basket size hole in the ground. This has been fixed, but overall, the baseball coaches in talking to them and in talking to others are dissatisfied about the way the Irving baseball field looks. He stated that he sometimes umpires and he has umpired more games and does not have any games at Dieruff this year. Umpires can cancel games if it is unsafe. When you have an outfield that is full of dubbins which are hard to see that creates a dangerous situation for the outfielders and those practicing. This prevents a liability problem for young athletes. It needs a good roller.

Mr. O'Connell stated that Irving Park is owned by the city, but the Allentown School District athletes use the park and many times the director of facilities for the school district and the city work together to remediate any problems that are happening. He suggested that the administration gets a hold of Mr. Bob Sperling and see a long of the times if they don't have a piece of equipment, we will loan it to them and if we need a piece of equipment they will loan it to us. We can remediate the problems over there so the kids are safe playing baseball or softball.

Mr. Pearson thanked Mr. Dougherty for the restoration of the flag which is flying proudly over Irving Park.

Mr. David McGuire, 223 N.19<sup>th</sup> Street, stated that there are 50 to 75 people standing out in the hall and there is a question if this is Sunshine Law participation. We cannot hear what is going on or see what's going on. There is a vast interest here tonight on matters on the agenda which he is not talking about, but there is no opportunity for people to discuss in a meaningful way. He has over the last twenty-five years in many municipalities where everybody gets a chance to speak and it has to be a place where everybody can see or hear. There is nothing being heard out there and we can't see anything. Any people that are qualified to speak on matters on the agenda will not stay here and participate. This is a form of fraud of our democratic process. People should be aware of this. There are many people here that are great citizens of our town that is being cut out from their participation tonight. Everybody should speak that wishes to speak.

Mr. Gurdy thanked Mr. McGuire and stated that they did make an announcement that the people outside will have an opportunity to speak.

Mr. McGuire stated that respectfully Mr. Gurdy that's not it, everybody has to hear what's being said so that they could adjust what they are saying. It is an open process and people can be able to ask questions or ask questions later on. This is not an open process. This is an example of something else that he thought was long gone from municipal practices.

Mr. O'Connell stated that Mr. McGuire is right, but given the circumstances, we had no idea if people were showing. He thinks if anyone had a comment we could open the door for them to hear. Everyone has the opportunity to speak under courtesy of the floor and when we get to the Delta Thermo Resolution everyone has an opportunity to speak about Delta Thermo Resolution and if we have to be here until late hours, early morning hours everyone has to be heard on the Resolution. He does understand what he is saying about a public meeting. Everyone needs to hear what is going on, but he been in other meetings, school district meetings where the overflow crowd does go out the hall. Let's move on.

Mr. Gurdy agreed with Mr. O'Connell and said probably in the future they may look into putting a speaker outside so the people in the hallways can hear it or putting a monitor so that people can see it. This is something that they could think about doing in the future so let's take note of that. It is a good suggestion and is the first time they had so many people out there in recent memories. He does not remember a time where they had so many people at Council and he has been around for thirty something years. We need to make some type of adjustment and he apologized that it was not done earlier.

Mr. Peter Crownfield stated that the important point is that the people in the public have their right to hear, see and observe Council's deliberations. The opportunity has not been provided that means that any decision made tonight violates the Sunshine Act and is not legal. The morally correct thing to do regardless of the legal issue is to you know you have roughly three hundred people here who wants to see and speak on the Delta Thermo Project. If you don't follow the process, the only acceptable choice is obviously and Council does this all the time is that they adorn that issue into a separate meeting and they do it at a school or Scottish Rite or a place that can accommodate everyone. If you don't do that, it is just a mockery.

Ms. Eichenwald stated that she does agree that the process will be tainted by the fact that there are people outside that will not be given an opportunity to hear the speakers speak when we reach that moment. This is a big problem and the way they usually arise at decisions is that everyone should have the right to both see and hear when they arrive at the discussion on Delta Thermo.

Mr. O'Connell asked the solicitor if he had a comment addressed by Mr. McGuire and Mr. Crownfield.

Mr. Wiles stated that the purpose of the Sunshine Law is to make sure that everyone is a part of the process. It appears that it may bring up issues with the Sunshine Act because under that act, and he does not have the act in front of him and is not an authority on it, but his understanding is that you have to have the opportunity for deliberations and actions for a government body such as a Council out in the open so there is transparency and people can comment and bring forward their concerns in front of the body. It is some validity to it, but he will have to check on it further. That is what appears now.

Mr. O'Connell asked what the repercussions are.

Mr. Wiles stated the usual repercussions. Someone could file a lawsuit if they wanted to if they feel that it was not done under the Sunshine Act.

Mr. O'Connell asked if they had the right to do that as a citizen.

Mr. Wiles stated yes.

Mr. O'Connell stated to Mr. Guridy that obviously his own personal opinion is that they need to resolve this matter tonight. He does not want to go table again. He has been on Council two years and two months and they have talked about this over the last two years and two months. He does not want to violate the Sunshine Law as a public official. Is there any resolve that they could do? There are many people here that are in favor of this project. There are probably less people here that are opposed to this project. If we get a balance, not a balance in numbers, but if we asked some of the people who are in favor of the project and they are in large numbers and he does respect that and would ask some people that are in favor of this project to minimize their numbers and have a voice and maybe open the doors for the other people so we are not in violation of the Sunshine Law.

Mr. Gallagher stated to Mr. O'Connell that they could help him. (A number of people associated with Mr. Gallagher left Chambers allowing the people outside to have access to the Chambers.)

Mr. O'Connell thanked Mr. Gallagher.

Mr. Guridy stated that is a good idea and let's do it in an orderly fashion.

**5. Approval of Minutes:** Council Meeting: February 15<sup>th</sup>  
Minutes approved by common consent.

## **6. Old Business**

None

## **7. Communications**

None

## **8. REPORTS FROM COMMITTEES:**

Budget and Finance: Chairperson Schlossberg

The committee held a meeting where they discussed last year's budget numbers and this year's numbers. He will discuss it in detail at a later time. The one item he would like to note is that they will have either a Budget and Finance Committee meeting or Committee of the Whole on the impact on the reassessment in Lehigh County. Lehigh County has been kind enough to agree to discuss how it might affect us from a financial or economic development perspective.

Public Safety: Chairperson Eichenwald

The committee met this evening; the next meeting be on the first Wednesday of the month of April and will continue the discussion on EMS.

Community and Economic Development: Chairperson Schweyer

The Committee has not met since the last Council meeting; the next meeting is scheduled for March 14<sup>th</sup> at 6:00 PM – note the Committee will meet on the second Wednesday of each month between the regularly scheduled council meetings along with Public Works and the times and order will be determined based on the agenda items.

Parks and Recreation: Chairperson Mota

The Committee has not met since the last meeting; the next meeting is scheduled for March 21<sup>st</sup> – the committee will be reviewing the study of the city pools on April 18<sup>th</sup> with consultants and all council is invited.

Public Works: Chairperson O'Connell

The Committee has not met since the last Council meeting; the next meeting is scheduled for March 14<sup>th</sup> at 6:30 PM and will rotate agenda items.

Human Resources, Administration and Appointments: Chairperson Concannon

The Committee has not met since the last Council meeting; a future meeting has not yet been scheduled.

Rules, Chambers, Intergovernmental Relations and Strategy: Chairperson Gurdy

The Committee has not met since the last Council meeting; a future meeting has not yet been scheduled

## **OTHER COMMITTEE REPORTS**

Mr. O'Connell asked where are they are with filling the Arts Commission that Mr. Donovan held. Do we have a member to fill that commission? Mr. Donovan was a representative on the Arts Commission and there is an opening there.

Mr. Gurdy stated that they will discuss.

## **CONTROLLER'S REPORT**

Mr. O'Connell asked can they hear the Controller's report.

Ms. Koval stated that she attended the Budget and Finance Committee meeting and she is in agreement with Mr. Schlossberg that they will be discussing issue in the next Budget and Finance Committee meeting or Committee of the Whole.

Mr. Schveyer thanked Mr. Dougherty and the Mayor for working in good faith to get the Blighted Property Review Board reappointments appointed and he looks forward to getting that in the near future.

## **9. APPOINTMENTS:**

**Marty Velazquez – Planning Commission – term to extend to 1/3/2014**

Mr. Gurdy stated that Mr. Velazquez indicated that he could not be here. He was on City Council for three terms.

Mr. O'Connell asked if Mr. Velazquez replaces Mr. Ingram.

Mr. Gurdy stated that is correct.

**Resolution passed, 7 – 0**

Mr. O'Connell asked if there is a possibility that they could move the Resolution 13 – Delta Thermo Agreement to request to suspend the rules and move it up. He stated that it is in everybody's best interest to move it up and not wait until the end of the night.

Mr. Schweyer stated that one person that would be adversely effected and the will be Joel which is Bill 7. Can we do it after Bill 7?

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

### **Bill 7**

Amending the General Fund by changing the EMS Manager from a 13(N) to a 17(N) and adjusts the salary accordingly.

Ms. Eichenwald stated that this was before Public Safety and it was recommended favorably 3 – 0.

### **Ordinance passed, 7 – 0**

Mr. Gurdy stated that they will suspend the Rules to introduce Resolution 13.

Mr. O'Connell made a motion to suspend the Rules and move to Resolution 13.

Mr. Schlossberg seconded that motion.

### **R13 Delta Thermo Energy Agreement**

Authorizes the Administration to enter into an Agreement with Delta Thermo Energy A, LLC for Waste to Energy Services to be provided at a Waste to Energy Facility to be constructed by Delta Thermo Energy A, LLC on Certain City Property.

Mr. Gurdy stated that Council has the first chance to speak then they will allow several people to speak. They will have comments from the Mayor and a couple of the individuals and Ms. Koval with finances as well. When the public speaks, an individual will have three minutes to speak and it will be timed and if you represent an organization, you will have five minutes. If someone for instances is representing the Sierra Club, we refrain others to speak on behalf of the Sierra Club because you have a spokesperson and this will be the same thing for unions and anybody else representing an organization. Once you speak, we will allow other people from the outside to speak as well.

Ms. Eichenwald stated that since this is not a court of law, but it is a Council of public opinion she would like Mr. Gurdy to tell what is his intentions visa vie the legal representation of Delta Thermo. When they had the discussion last time Mr. Groen was allowed to speak at the very end of the session and his time was not limited. She stated that is unfair and the citizens should be given that time to respond since it is the citizens of this community that will be paying through their taxes and will be affected through their health and welfare and safety.

Mr. Gurdy stated that the timing for the administration and Delta Thermo will be limited because they might have to answer some questions. We don't want to be repetitious.

Ms. Eichenwald stated that her issue is will the public be given the opportunity to respond to what they legal representation says. They were not given the opportunity at the last meeting.

Mr. Gurdy stated that usually the way it works Ms. Eichenwald when the public comes over to speak, they speak to Council. They don't speak to each other.

Mr. O'Connell stated that anyone in the hallway that wants to come in, they should come in now because there are a few empty seats. He stated that maybe they should have representatives from Delta Thermo and the administration speak first rather than last and limit their time so then everyone will know the position of Delta Thermo and the administration and in their questions and comments maybe some of their questions or comments might be answered or maybe some questions will not be answered and they can ask the administration or the representatives from Delta Thermo.

Mr. Gurdy stated that he does not want people to go back and forth or people from the public that may have a question that they would not have the opportunity to answer at the end.

Mr. O'Connell stated his way will work because if you have Delta Thermo at the end and they already came up to speak, they get one shot. If you have Delta Thermo speaking now and the administration speaking now, again limit their time and that might help the whole process.

Mayor Pawlowski stated that this process is for you as Council men and women to come to a decision regarding this resolution. He stated that he has opening remarks and apologizes that he has to leave. He has to catch a flight in Philadelphia he has to speak at a conference in Pittsburgh. He stated that he tried to book the last flight at 10:54 PM tonight. He will give his opening remarks and leave. There will be people here from the administration. He suggested as they go through this process and they have questions because this is a deliberative process for Council to make a decision and you will have the opportunity to ask the administration or Delta Thermo any question you want so that you can make a deliberative, educated decision here tonight.

Mr. Gurdy stated and that is what we are doing. He asked if his colleagues wanted to say a few words.

Mayor Pawlowski thanked Mr. Gurdy and stated that he appreciates Mr. Schlossberg, Mr. Schweyer and Mr. Gurdy for bringing this Resolution forward for reintroduction. He feels this is important because they have a long-term problem and that problem is trash. Every single minute and every single day over 40,000 pounds of garbage is dumped in Pennsylvania landfills. Every minute thirty garbage trucks unload on Pennsylvania soil. Every single second of every single day over 600 pounds of trash are chucked on Pennsylvania lands. Pennsylvania is the number one imported of out-of-state trash in the United States. Pennsylvania produced less than half, 48 percent of the trash that fills our landfills. We import trash from 28 states including believe it or not, Puerto Rico, that comes here in the state of Pennsylvania and Canada. Although Pennsylvania has the capacity for potentially twelve more years of garbage into its landfill at a big rate, trash is a big business and everybody wants a piece of that action and landfills are filling up in a rapid rate, this is a problem. The trash industry is a captive industry in other words there are only so many places you could put this particular item which is in the ground. Landfills require space and the current space is filling fast. If you think of a simple rule of thumb that he was able to get out of DEP Municipal Waste Study that was done in 2007, a simple rule of thumb indicates for every 10,000 people, we require approximately 3 acre feet of space for each year. He pulled out a yard stick and stated this is three feet and think of trash compacted three feet, 3 acres of this, three feet high compacted for every 10,000 people. If you think of Allentown for Allentown that is 36 acre feet of space per year that we use to dispose of our garbage and 720 acre feet over the next twenty years. That is a lot of space that we are picking up with our trash. For a large city with a million people or New York City with close to nine million people, that is a considerable chunk of real estate and almost thirty-three hundred acre per year that New York City is producing per year. That is 66,000 acres of trash. He gave Council a chart of the number of landfills in the United States which came from that study which Fran will pass out. The number of landfills in the United

States has declined in the past few decades from 7300 in 1989 to fewer than 1800 in 2007. New Jersey has to ship 50 percent of its solid waste or 1100 tons per year to nearby states. Increasing the problem is that in March of 2001 New York City closed its Fresh Kills Landfill at Staten Island. This one facility was the largest landfill in the world accepting over 12,000 tons of trash each day from 50 percent of the 8.6 million people that resides in New York City. Nearly all of the waste, all of it generated in New York City is sent to Pennsylvania or Virginia which means that the bulk of their daily 13,000 tons of trash produced by the biggest city in the country goes into our soils. Our landfills are filling up and the cost of disposing our trash is getting more expensive every single year. We need to find alternatives and as a city administrator, he wants Allentown to be in charge of its own destiny and find alternative ways to dispose of our garbage a provide consistency and predictability of both cost and service to our residents. He stated that he is extremely concerned about the environment and he feels that they have to look for progressive innovative ways to dispose of our trash that is less harmful to the environment than landfilling. He wants to say that during his time as one of the leaders of this city that he helped to leave a legacy for his children and his children's children. He stated there is a great quote in the Native American proverb that says we do not inherit the earth from our ancestors we borrow it from our children. He stated that he wants it to be said that we didn't just follow, but we lead other cities in the commonwealth and in the country. That we left a legacy of a city that took on tough issues of garbage disposal head on and came up with innovative solutions that made our city better off for generations to come. This is why he is so passionate about this project and why it is in the best interest of our citizens and our community. We conducted a thorough process as you know. He stated that Mr. O'Connell alluded to it. We have been here for two years we have talked about this project and we have taken over two years to get here. We listened to Council and took your suggestions and developed extensive agreements that exposes the city with little to no risks, requires no upfront investment by the city, created a unique, stated of the art process of disposing our municipal solid waste instead of dumping it into a landfill and provides consistency and predictability in cost, savings for our taxpayers and jobs for our community and yes, improves our environment. We went through a very thoughtful and detailed RFP process and conducted extensive research and even sending our own staff out to Germany to look at one of the component parts of this new technology and the best team of professionals in the field to help us draft the Agreement and what you have in front of you is a product for approval which is the culmination of hard work and effort on the part of multiple staff and on behalf of the administration he wants to say to the staff that worked on this thank you because they have worked long and hard to pull this proposal to you and what you are looking at today. He thanked everyone involved for working diligently on giving them the best product you have here today. Since they met a few weeks ago, they listened to Council's additional concerns and there was an issue of the length of the contract and he would tell them today that they worked on an agreement with DTE that after ten years the city could terminate the contract by buying out the DTE facility for either the fair market value of the plant or assuming the remaining debt cost which every is less. We also agreed that their company and as their company grows which he is hoping that it will as this technology is unique and other municipalities buy it, DTE will manufacture the product here in Allentown providing even more local jobs to our committee. There has also been questions on the tonnage because there is a provision in the contract that if we don't provide enough tonnage we will have to get tonnage from other locations and if Allentown is not able to produce that amount of tonnage. He stated that he does not believe this is a problem and he would tell them why 2500 private commercial users in the City of Allentown and we only contract with 375. What that mean, over 2200 we do not collect leaving us plenty of garbage in the city to utilize. That is not even counting the school district which has how many buildings, 22? Twenty-two ASD facilities that also have a private hauling contract which we could work with them to process their garbage as well. Also, tonight there is an expert on waste to energy, Bill Barndess from Columbia University Earth Engineering Center where he is a research associate on behalf of the university's waste to energy research and technology council. He spent over thirty years with the EPA as first chief of the department energy and waste disposal and he is here to talk about this technology on behalf of the city and Delta Thermo. The decision is now in your hands. Do we stay with the status quo or do we continue to landfill and go with this uncertainty of

where we stick our garbage as these landfills around us starts filling up and we have to transport this garbage further and further with an ever-increasing cost for us and our citizens to dispose of our waste or do we look to reshape our future and improve our environment for generations to come. Linden Johnson said it best, "yesterday is not ours to recover, but tomorrow is ours to win or lose." The choice is up to you. You will hear from people on both sides of the argument. He stated that he could tell them that they tried to address and he believes they addressed to the best of their ability the questions and concerns of council and present this contract to you tonight for your reconsideration and approval. He is open to questions and thanked them for their time and consideration.

Mr. O'Connell asked Mayor Pawlowski to go back and read him the quote or the statement about the legacy about the children and grandchildren of Allentown.

Mayor Pawlowski stated during his time as one of the leaderships of this city that he helped to leave a legacy for his children and his children's children. He stated he quoted a Native American proverb that says we do not inherit the earth from our ancestors we borrow it from our children.

Mr. O'Connell stated that he is not trying to debate Mayor Pawlowski, he is writing notes about 28 states that is transporting trash as far as Puerto Rico that is quite a feat, they must be losing money.

Mayor Pawlowski stated that he will take his notes and give it to Mr. Hanlon and they can be entered into the record.

Mr. O'Connell thanked the Mayor and stated that they have been talking about this for two years and two months and the mayor has been very upfront and the people from Delta Thermo has been very upfront, the lawyers and experts that have been with us have been upfront and he thanked the mayor for his leadership in the City of Allentown and respect and appreciate what you just said, Mr. Mayor.

Mr. Guridy asked Ms. Koval to speak on the process of the purchasing process because there were questions on who was chosen and how they were chosen.

Ms. Koval stated that tonight she has a purchasing hat on because this RFP was put out while she was the purchasing agent for the city and the purchasing process was strictly adhered to during the entire time that the RFP was put out. It was put out on Tuesday, February 22, 2011 and that is when the RFP was released on and on Thursday the third of March 2011 they held a pre-proposal conference and it was also a call in. The conference was held here in Council Chambers and anyone that was a potential vendor who was too far away and wanted to participate in the conference they had a conference call line so that people could call in and asked questions. There was a city team here ready to answer questions on the process. From that time, questions were due on the RFP whether they were from the meeting itself, the pre-proposal conference or the document, questions were due on Thursday, March 10, 2011 and those questions were then answered in the form of an addendum and were issued on Monday, March 21<sup>st</sup> and it went out to everyone that attended the pre-proposal meeting conference or who was on the conference call. The RFP responses were due Thursday, April 7, 2011 and they were opened on that date. We received two proposals and four responses and those vendors had chosen not to send in a proposal. The two RFP proposals that we did receive were than distributed to the city team and she believes the list of the city team members are in your packet. She stated Richard Young, Director of Public Works; Robert Kerchusky, Waste water Treatment; Richard Rash, Utility Engineer for Public Works; Ann Sauman, Solid Waste and Recycling; Jane Kramer, Solid Waste and Recycling; Dale Wiles, Assistant Solicitor; John Sale, Lehigh University was a consultant to the city; Charles Berman, GBB – Consultant; Dave Cedar from GBB and Harvey Gershman from GBB. She stated that she was also on that team, but solely to give advice on the technical inquiries on the RFP. The city team met to review the proposals on Thursday, April 14<sup>th</sup> and at

that time we scheduled two meetings on Tuesday, April 19, 2011, the city team met in the Bridgeworks Conference Room and representatives CBES Global and Concord Blue Energy Service were interviewed by a conference call because they were not located locally. Following that on Tuesday, April 26<sup>th</sup> another interview took place in the Bridgeworks Conference room and this interview was with Delta Thermo Energy. Additional questions from both interviews were written and sent to both vendors. The follow up questions were received by both vendors and on Monday, May 9<sup>th</sup> again at the Bridgeworks Conference room met to discuss the interviews and all the questions and the follow up questions and responses. At that time, the city team came to a consensus and agreed to move forward with Delta Thermo Energy and to enter negotiations with them. On Monday, May 16<sup>th</sup> the team met again with the negotiation team for the city were Marc Feller from Dilworth Paxon was our lead negotiator; Samuel Cooper, Dilworth Paxon, Scott Shearer from PFM, Jason Brockman from PFM, John Sale from Lehigh University; Harvey Gershman from GBB, David Cedar from GBB; Rich Young, Director of Public Works; Bob Kerchusky, Waste Water Treatment Operations; Richard Rash from Public Works; and Ann Saurman from Solid Waste and Recycling. The team met to set the questions and the issues to enter into negotiations and on Tuesday, May 24<sup>th</sup>, the negotiating team met with Delta Thermo's team at Hoffman House at Muhlenberg College. She stated that once the negotiating team took over her involvement finished with the process. One section in the RFP at the end of the evaluation and criteria they always put that in the RFP so that a vendor knows how their RFP is going to be judged and this section reads the results of the evaluation process the city may A. condense the negotiations with one or more vendors, B. request additional information from one or more vendors, C. reject all proposals or D. take other actions. It is anticipated that if it is in the city's best interest a preferred vendor will be selected and negotiations will commence on the terms of mutually acceptable agreement for the utilization of WTE technology. All vendors knew there was a chance that we were going to select a preferred vendor and move forward in that direction.

Ms. Eichenwald thanked Ms. Koval for that comprehensive timeline, but stated however there is a lot missing from that timeline and that is everything that pre-dates March 2011. Delta Thermo was awarded the opportunity to speak to several public forums before March 2011, before the public RFP was issued.

Ms. Koval stated that she was not involved prior to this.

Ms. Eichenwald stated that she knows and is just stating the facts. She stated that herself and others that are present before March 2011. That was the only company that was allowed an opportunity to have a public forum with the citizens of Allentown. It is her understanding that when you do an RFP it should be fair so that every vendor is given the same opportunity and in this particular case only Delta Thermo was given the opportunity to speak publicly before the RFP was issued.

Ms. Koval stated that is correct. They did hold public meeting prior to the RFP. She does not know why and she can't explain if any other vendor was allowed to do that or not. All she can speak to is the RFP process. Once the RFP went out no one could speak to the public.

Ms. Eichenwald stated that her only point is that there were no other vendors. She has been a member of City Council for five years and she certainly was certainly here in 2010 when the process began or even before that. Only Delta thermo was given the opportunity and to her guess not how the process operates.

Ms. Koval stated that once the RFP was issued all rules and regulations were followed.

Mr. Guridy stated that the public will have a chance to speak. We are not going cross questions. The public will have a chance to speak. There were many questions last time and people called him with questions and he asked the administration to present to us and answer some of the questions. He asked Mr. Feller to come up and explain how he is involved in the project.

Mr. Feller stated that they were asked to come in at a point when it became apparent that they had to be a discussion about a contract.

Mr. Gurdy stated that you were asked by whom and you represent the city. He stated that all of Council heard this already, but the general public has not.

Mr. Feller stated that he was initially contacted by Mr. Strathearn and then by Jerry Snyder and had discussions with Mr. Snyder pertaining to his firm to assist the city in negotiating a contract with a vendor for the waste to energy contract. He does not remember when that commenced, but recall sometime at the end of 2010 to look at some documents and if it was something that they could provide assistance to the city. They did not participate in the RFP process. They had some discussions with Delta Thermo Energy prior to the RFP process and it was decided by the city to then terminate those discussions and conduct an RFP. They were notified once the city team selected Delta that his firm services were needed to help negotiate a contract with Delta.

Ms. Eichenwald stated that they now heard from Mr. Feller that there were negotiations with Delta Thermo prior to the issuance of the RFP which is contrary to the RFP process. The way it works is the RFP is written and everyone has an opportunity. One firm has an opportunity to speak publicly and other firms should have been given the same opportunity.

Mr. Feller stated that the discussions prior to the RFP is somewhat of an education process in terms of what contracts typically contains the kinds of facilities available for this size and what kinds of technologies are out there. He thinks some of the discussions that were held with Delta led the city to conclude that you really did need an RFP process.

Mr. Gurdy stated that Ms. Eichenwald had a question and asked if anyone from the administration had an answer.

Mr. Strathearn asked Ms. Eichenwald what is her question.

Ms. Eichenwald stated that she does not have a question, she was making a statement.

Mr. Gurdy asked Mr. Scott Shearer to talk to them about the questions on the finances.

Mr. O'Connell stated that they heard Mr. Feller and Mr. Shearer. He knows the book and read the story. He wants to speed it up. We have seen Chart I, Chart II, and Chart III. Mr. Feller was at the meeting last time for hours and grilled extensively by Council and he appreciates, but if people are hearing it for the first time, bend a little bit, but we have been down this road.

Mr. Gurdy stated that there are people that called him about what is the finances and why thirty-five years. We have an expert that Council hired to look at the best interest of City Council.

Mr. Scott Shearer from Public Financial Management stated that they were not part of the RFP process. They were brought in after the fact to assist the city and look out for Council through the negotiation process of the contract. He stated that early on their involvement was unclear. They are municipal financial experts and do a lot of financing around the country and one of their specialties is solid waste financing. They were brought in to evaluate what was going on. It was a learning experience on how this project was being funded. They had several meetings and they discussed who was issuing the debt and they learned that the city will not be issuing the debt. If the city was financing the debt, that it would be

easier and interest rates would be more attractive. It was decided that the city would not be guaranteeing the debt. We are here to protect the financial interest of the city in regards to this transaction and regards to the financials. It was back in December when they were asked to put together a model to evaluate the service contract. They did not want to bring their model to City Council until they had all team members in agreement and onboard with the assumptions of what is being shown. He stated that he is not a technology expert or an environmental expert, he is a financing expert and what they provided here was a model with the input of the entire team. They created the model to put in the numbers of what that contract said. They made the model extremely interactive for our purpose and the team's purpose and to be able to look at things that the impact will have.

Mr. O'Connell stated to Mr. Shearer that the mayor said after ten years we could say goodbye, is that what he heard.

Mr. Shearer stated that it is a new caveat that just surfaced today.

Mr. Gurdy stated to Mr. O'Connell that he heard loud and clear last time that people were not satisfied in getting ourselves into a thirty-five year contract. He asked the administration is there is a way to reduce that time.

Mr. O'Connell stated that he understands that. He is worried about thirty-five, thirty, but ten. What is the financial impact to say, see you'll as far as the risk to the city with the financial stuff.

Mr. Shearer stated as far as Delta Thermo to get the financing. He stated it would be at your option. He deferred to Mr. Feller because he is a little bit more involved in that section, but it would be only at the city's option to do that.

Mr. O'Connell asked Mr. Shearer and Mr. Feller do they financially and legally feel comfortable with that ten year.

Mr. Shearer stated that it is the city's option to do that.

Mr. Feller stated that of course the city would have to pay a price to buyout the company. He stated that he only saw the language a couple of hours ago and it looked pretty good to him. The provision is that in order to exercise the buyout option the city would pay Delta the greater of the fair market value of the facility and that is determined by an independent appraiser who has experience and is capable of appraising a facility in this nature. That appraisal takes into account both the physical aspects and the profit potential of the facility or the debt that is outstanding on that facility. If we did not pay the amount of debt and the price that we are paying did not cover the amount of debt, then the facility could not be financed.

Mr. O'Connell asked again, do you feel comfortable with the ten year situation, legally. The risk to the city is minimum or not at all.

Mr. Feller stated that the city never has to exercise that option, but if it decides to exercise the option, the city would have to find the money to pay to exercise the option. That money may not be available to the city at the time. It depends on many factors. The valuation of the facility, the solid waste industry, but at least it presents a possibility that if for some reason the city wants to get out of this contract, it has the ability to do so.

Mr. O'Connell asked Mr. Shearer if he had a ballpark figure what that amount would be to the city at that time.

Mr. Shearer stated no, not at this time.

Ms. Eichenwald stated that it would give the city the option to buy this facility for millions and millions of dollars. It is \$35 million on the 2012 market, so one could only imagine how much money the city has to have in order to purchase this in twenty years. It is just a phenomenal amount of money and she does not see the feasibility at all.

Mr. Shearer stated that let's say in twenty years, the facility is working properly, the waste is being disposed of and everyone is happy, it probably will be a very expensive proposition to buy that facility, but the chances of us wanting to buy it out will be significantly reduced. If the facility is not operating well and has all kinds of operational problems, but it is barely meeting the obligation and we can't terminate the contract for a breach then perhaps the value of the facility is not that great and then the buyout price will then be lower unless the debt at that particular point exceeded the value of the facility and in that case we will take the debt and there will be some amortization of the debt by tenth year.

Ms. Eichenwald stated is what frightens her. In ten years you have a marginally operating and now the city has to pay still a quite substantial amount of money to terminate the situation.

Mr. Shearer stated that before we did not have a provision at all. This provision did not detract in any way to the contract. It simply gives the city another option. It may turn out it is not feasible option.

Ms. Eichenwald stated when you look at the feasibility of this; it is even more financially frightening.

Mr. Marcel Groen, Delta Thermo, stated with their permission he would like to spend a few minutes and then try to reserve at the end to answer any questions. He wanted to set the record straight to the new council people and also to the public. These discussions that were very informal started back in 2009 between him and the Mayor. The Mayor liked the idea and announced his desire to see that this comes in Allentown in August of 2009. They had a variety of discussion subsequent to that and they took it upon themselves to invite the public on two different forums it was not a city sponsored thing. We invited the city to come and the mayor came and spoke at one and Ms. Eichenwald and other Councilmembers came, but that was Delta Thermo's request and suggestion. They wanted to ensure that the public was behind it. One of those meetings was attended very similar like tonight in the east end of Allentown because people were concerned about the past. That meeting took several hours and there were note one negative word spoken except Ms. Eichenwald and that is certainly her right, but there was not one word from the public and there were so many people in favor of it. They asked for a similar meeting in Council Chambers because they felt it was unfair to just invite east Allentown folks. Delta Thermo did the same thing, with the same reaction. It was the right thing to do and that is the reason no one else did it. He can't tell you why no one else did it. He stated that they were advised that the city wanted to file an RFP process and they did not talk about it at all and certainly set the project back in the position in starting at the beginning and that's how they got to here and to say they had an unfair advantage he would argue that they spent a lot of effort, energy and finance to explain to the citizens of this city what we were doing at that point in time. They had a unanimous support with one or two exceptions. They listened to Council and the administration on a number of things and one of the things they were asked is to identify an expert in the field to address issues. He asked Mr. William Brandes to come up and speak.

Ms. Eichenwald stated that Concord Blue which was the other firm that requested this contract made the same request that Delta Thermo did and that was to address the public and they were denied their request.

Mr. Groen stated that everybody has the ability and right to send out notice to speak to the public. They could have done so. As of February 28<sup>th</sup> of this year, nine days ago the parent company of that company

filed for bankruptcy in Germany and is no longer able to operate. Mr. Brandes is presently working and employed by Columbia University's Earth Engineering Center. He is a research associate and employed on the university's waste to energy research and technology council that brings together engineers, scientist and managers from universities and industry from around the world. For thirty years he had a career at the EPA mostly in the office of solid waste.

Mr. O'Connell asked how long will Mr. Brandes get.

Mr. Gurdy stated five to ten minutes for everybody. We want them to go for a half an hour.

Mr. O'Connell asked why ten minutes. He does not want them to go for a half an hour. He stated that Mr. Sales was the city's expert, why is this the first time we hear of Mr. Brandes tonight.

Mr. Groen stated that they asked for him to be here tonight because when they came three weeks ago Council had additional questions and he asked an expert.

Mr. O'Connell asked who is paying him.

Mr. Groen stated that we are.

Mr. Brandes stated that he worked thirty years at the EPA and retired three years ago. This is one of the most interesting meetings out of the ten or twenty he has been on. He is in strong support of this proposal and is here to represent the Columbia University Earth Engineering Center and on behalf of the university's waste to energy research and technology council. He stated that he is not here to represent the EPA, however, the agency has encouraged waste to energy as part of an integrated waste management strategy clarifying that waste to energy is not disposal, landfilling is disposal. Why he supports this project first, waste to energy represents the only proven technology capable of handling post-recycling municipal solid waste. Secondly, DTE design is not unproven as some claim, but rather a tailored system that is aligned to fit Allentown's specific situation. Three, the system will not be obsolete in a few years; it is part of a necessary integrated waste management strategy that fulfills the need of a 21<sup>st</sup> Century waste management.

Mr. O'Connell asked Mr. Brandes with all his years and experience working with the EPA have you endorsed systems that were developed and came obsolete five years later.

Mr. Brandes stated that the federal government cannot specific endorse an operation.

Mr. O'Connell asked if Mr. Brandes given testimony as he has given tonight about Delta Thermo waste to energy anywhere in the country and what you have said has systems that you have endorsed been obsolete years later. You stated that this system will not be obsolete in a few years 3 – 5, do you see it being obsolete in twenty years, twenty-five, and thirty-five. He stated that Mr. Brandes has given testimony on technologies that has been proven. Nowhere in the world have you seen these three components proven.

Mr. Brandes stated no. He stated that he does not and the reason that he does not because modular systems can be improved first. Secondly, the system itself is doing what he believes they should be doing for our individual communities and the country as a whole i.e. eliminating landfills while creating energy that has a very low carbon signature. He stated that the system that you are talking about and the components and all that has been proven in the sense it has been used all over the world and integrated with a waste to energy system. The three systems have never been put anywhere in the world together in a way to handle

certain issues. Each one is a proven technology. When you put three proven technologies and put them together it does not eliminate their abilities.

Mr. Groen stated that it is proven technology and what you are doing is not being fair with your analysis.

Mr. Gurdy stated that Mr. Groen would be able to answer questions, but wanted to give the opportunity for the public to speak.

Mr. O'Connell stated that he has to make a decision tonight. He is not trying to be fair or unfair. He is going to listen to everybody and at the end of the night he will make a call and hopefully he will make a call based on what is best for the citizens of Allentown. Is it proven technology or unproven technology that you are bringing to Allentown or unproven technology?

Mr. Groen stated that yes, and the reason it is because in Japan and Korea where they have the resource recovery system and the water system in one facility when they get the pulverized fuel, that is transported to a combustion chamber and they burn it and create energy and therefore it is proven technology and works with all three of those components.

Mr. Gurdy asked Mr. Groen to wrap it up because he wants to hear from the public.

Mr. Schlossberg made a suggestion that they can say in advance that they will be taking a recess at a certain point because he is sure it will be three or three and a half hours shortly.

Ms. Eichenwald stated that she believes that the public should be able to talk.

Mr. Schlossberg stated that he agrees and that's why they should schedule it in advance.

Mr. Weston Vogel stated that he looks around the room and is happy to see so many people concerned about the situation. Fifty years ago he decided that there was a real problem with garbage. The first time he spoke against a congressional sub-committee was at the request of Willard Curtain. Willard Curtain stated that if he sees something put your oar in the water. He is not in the waste business; he is in the petroleum business and the exploration and production. He wants to know in the contract is there a hold harmless clause. The reason why he asks this is there always a reason for somebody to hire an attorney to bring in action to what you are trying to do. Who is going to pay the legal fees? What killed Agri-coast was broken glass. Are you satisfied how broken glass in the waste stream is going to be handled.

Mr. Michael Donovan, 122 N. West Street, stated that he is surprised that Council does not have professional representation on this and those that are opposed have three minutes to represent their case. Many people will speak on the deficiencies of this project and the potential for severe impact on Allentown if it were approved. He questioned both the financial and technical information that was provided to Council during his term. He has analyzed the most recent information and while the numbers add up he does feel the length of time, there is virtually no savings to Allentown given the sensitivities to risks behind the assumptions and the length of time before any real savings is forecasted. The savings are based on unsupported assumption concerning electricity sales and the sales of excess waste capacity. Others have or will speak about this later. He has not seen anything that proves the technology works even the city's technical consultant in a recent letter notably after the last vote cannot guarantee technical success. Due diligence has not been adequate. He would like to note that the last time the administration and the City of Allentown made a commitment to a special group was the pension agreement and with adequate information was also not forthcoming and does Council really want to lock themselves in for thirty-years more years on an untested system that could be replaced by new technology real soon and they hear

conflicting reports. He is surprised in the last minute change in the legal agreement today which seems strange to him. Council stated that they will miss his financial acronym and he must tell them that if he were still sitting there he would conclude that this is financially not good for the City of Allentown. The numbers do not add up to him and a small shift of any of the assumptions would change the forecasted results to the city's detriment. He could not vote for taking on such much risk. Immense political pressure has been brought to bear by groups on Council members in favor of this project. The pressure has been close to even threatening and retaliation has been carried out. As a professor of business ethics he could not tolerate such actions and would immediately cause him to vote no. You should be ashamed and residents of the city and members of Council should be appalled that such pressure and threatening attitudes took place. With a commitment like this, many of you will not be here in the next few years and some will be leaving real soon. To make a commitment like this would be disastrous. From the first time he met the principals behind this project; he was suspicious about his capabilities and never liked the documents that were presented to him based on his professional experience. Maybe it could work, he does realize that, but no one yet, has provided him information that would change his mind. He hopes that Council will consider voting no.

Mr. Rich Feigley, 1002 S. Bradford Street/family owns Allentown Brew Works, stated that he spoke at the City Council meeting not knowing what was happening with the project and was embarrassed to say that he had not heard that this project being a citizen of Allentown and one who lives on the south side up on the hill above the waste treatment plant he knew nothing about this. He had the opportunity to view the February 8<sup>th</sup> meeting there is actually a video tape of the entire Council of the Whole meeting and that was very helpful to be able to see what was spoken there. The financial analysis is really lacking and Mr. Donovan just spoke about that. What he is showing tonight is the PFM scenarios that were presented where the rates went from 3 to 3.15 to 3.10 showing that was the competitive waste tipping rate that they would be estimating in our projections. In that meeting Mr. Shearer stated that the group decided to find the three best scenarios to present to Council, of course, his data will show all of this and just on the first page alone you don't have to look at the second two pages right now, but it shows multiple variables. On this page alone there are six variables that could change. He stated what he did was where they went .15 up and .3 above 3 percent he went down .35 and .3 and took it down to 2.85 and 2.7 and you can see the numbers below and basically he had to back calculate everything and work it out and what he worked up was exactly what PFM worked up and it took a few hours, but he did pull it together and it made sense and it was wonderful for him to see all the little interworking's. He stated that he is an engineer by trade and went to Drexler University and studied materials engineering. He stated that he does not have an argument on the environmental side. The DEP and the EPA both approve this and if he has a battle he needs to go to Harrisburg and fight the battle there. He is not going to challenge any of the environmental issue here. He is asking Council to take a step and seriously look at the financial analysis that he done here. He presented multiple scenarios on how all these variables could change and how it would affect the city and how if it does not go in our favor we are definitely going to be in a lot of trouble. On the first page, the first column shows Delta Thermo versus the fact that the competing waste tipping rates go up at the same rate that Delta Thermo Energy is increasing the rate. The project never makes any money. It is based on the assumption that we are going to get good electrical rates and the price we are paying to Delta Thermo Energy is going to be reduced. At the February 8<sup>th</sup> meeting, Mr. Groen and Mr. Feller made a lot of wrong comments about the rates being fixed and Mr. O'Connell has asked about the 12 percent rate and you see that the negative 50,000, that is what you are referring to. The answer you were given is completely wrong. The rates in the contract are fixed 12 percent for the first five years and what he read on the contract or that's the agreement that he has. In the conversation, Mr. Groen stated that it is the floor and if it goes up, you get it, you get the credit and gets the extra money and if you don't get it in the contract he would make sure it is in the contract. He stated to Mr. Groen that he is embarrassed that you did not have the contract and no one read from the agreement. He would like Council to speak on the section on the agreement that speaks on the energy credit and the rate they would get because what was said on

February 8<sup>th</sup>, Mr. Shearer was the last to ask Mr. Feller to make sure if that is the correct thing that Mr. Groen said that it was put in the agreement and it was never put in the agreement.

Ms. Onica Whiteside-Wallace resides in Lehigh County, a member of the Equity Screen Actors Union, stated that because she was an actor, singer, and dancer and the best thing that ever happened to her was in order to be part of this musical cast that traveled internationally her parents had to get personal liability insurance for her and that was the best decision ever made for her life because later when she was in high school and college she was an elected official on a board similar to what you are now and our board made a very bad decision and several years later the board was sued and guess what, everybody who did not have personal liability insurance, the board liability to did not cover them and they all went bankrupt and they lost their homes, cars, personal savings, trust funds for their children and grandchildren to send them to college. They lost everything they owned, but her and a couple other people that had personal liability insurance did not lose everything we owned. We only had to pay \$10,000 to their lawyers to get them out of it. Before you make a decision, she would highly recommend because of the lack of transparency and accountability tonight.

Mr. Jeff Feigley, 812 W. Hamilton Street, stated that any good financial analyses especially presented to people that are not familiar with the terms discussed are always going to review the break-even analysis. He directed their attention to the first page of the document and look at the loses start for the city when there is less than a half of percent change in the competitive waste disposal cost. You were not shown this. He stated to Mr. Schlossberg and Mr. Schweyer that on February 8<sup>th</sup> they commented that they wanted to see the twelve rate change in the document. Anyone that saw that publicly and believes it to be true would have no reason to be here tonight to think of because it has not been changed in the document. This document needs to be amended to reflect public promises made by Council and also by Mr. Groen and acknowledged by Mr. Feller. He asked is it fair that these amendments would be able to the document. He stated that the mayor commented that they eliminated all risks for the city. If you look at the agreement it is very similar to a landlord tenant relationship and they are renting the land. When you look at the environmental it is 6.7.1 it actually states that a Phase I and a Phase II, if required and the problem for the City of Allentown and if it is not required and assumes that another entity would make it required and that is an assumption. Contractually it should be demanded because we are taking a company with environmental risks, taking the land and they do not have to stay there. If there are environmental issues at that point, you have no record of what the prior conditions were and you have no way to prove that the issues with the land were created by the company. The people have a right to know the private investors into this. We are talking about millions and millions of dollars. Our environment and risk to us, we should know everyone that is part of this company and should not be confidentiality with any individual or entity within this company. He stated that he is not totally against the project as a whole he is against the contract terms.

Mr. Gurdy stated that is correct. He thanked Mr. Feigley and said good point.

Mr. Joe Davis, 75 N. Tacoma Street, asked for Council's support on the Delta Thermo Project. He stated that environmental safety is a big concern of his, the air and water quality. It offers opportunities to be a leader in waste management by using this new technology for an effective way to get rid of our trash and expand our community responsibility by taking care of our own trash and sludge and not shipping it someone else's backyard and we could also take a further step in recycling by recycling our trash. He believes that this is technology that the city should invest in. He believes project will be in the EPA standards and will help Allentown' environment and provide a suitable location and secure the jobs for the city. We could take a giant step forward in proving that Allentown is a good place to live and raise a family.

Mr. Bret Helfrick, business owner at 1201 W. Liberty Street, stated that they employ ten people in the city as well as the other represented electricians throughout the Valley and this project will generate clean/green energy, create new jobs, save the city millions of dollars and will provide an environmentally clean facility with zero emissions. Over the past several weeks, they have gone out a spoken to members of the community to ask of their support of the project currently being considered by City Council. Today, he is submitting signatures of over 3,000 from members of the community and hope Council takes into consideration when you deliberate and approve this agreement.

Mr. Gurdy thanked Mr. Helfrick and asked him to give the document to the Clerk.

Ms. Rita Cowen stated that she has been a resident of the City of Allentown for the past three years. She here tonight because of information she saw in the Morning Call that there was more than one company interested in this contract and that they seem to be presenting some very different technology. The company we are speaking about here tonight is Delta Thermo which is creating a coal-like substance to burn for energy. Coal power by any other name is still burning carbon for fuel. Whereas, she heard the other technology she heard being offered was a technology to extract all the various gases and materials from a municipal waste allowing Allentown to have access to pure hydrogen if there was going to be fuel separated out methane and other biomass technological options. This sounds like a more attractive technology. The Morning Call stated that the company offered a more lucrative plan to the city for more money and costing us less money. Her big concern is why is there one company here who seemed to have had a lot of interaction with our Mayor before the process started and there is another company offering a better deal with a more interesting technology that is not just burning everything including fossil fuels. Things are sounding a lot like pay to play around here and she feels very uncomfortable about her local elected officials. She has voted every year since she came to the City of Allentown and what she has heard lately has made her unhappy with our current administration and the way that people are coming in and providing campaign contributions and getting more access and singular deals and direct access to elected officials and if people are not campaign contributors they are not getting as much face time with our elected officials to present their technologies and options in improving our community. She would love to see new technologies in our city and not send stuff to landfills, but she really does not think the process has been conducted appropriately.

Mr. William McGhee, 69 W. 29<sup>th</sup> Street in Northampton, stated that he grew up in the Lehigh Valley and spent a lot of time in Allentown, Bethlehem, and Easton growing up and he went in the Navy and came back out. He notices that people started recycling and now we recycle. This is an opportunity and opportunities only knock once. It is the biggest city in the Lehigh Valley and we need to lead by example. Let the Council move us forward in the right direction and get rid of the landfills and put people to work. It is manufacturing it is good for the city.

Mr. Chris Ott grew up on the east side of Allentown stated that he spend more than thirty years here. He hopes Council will vote yes and bring cheater electrics and good paying jobs to the town.

Mr. Peter Crownfield, Fountain Hill, stated that we all like the idea of waste to energy and less landfill, who can argue with that, but that does not mean just because you have that idea that this is a good proposal and contract. He heard much about the contract and that would into more details. As a former Chief Financial Officer, Chief Administrative Officer, and Chief Planning Officer for a \$100 million corporation that took him time and probably would not compare to Allentown's budget, but it is in the ball par. With a proposal like this and endorsed by our attorney we would have fired them on the spot. Not because it is all bad or it is a horrible idea, but for the very things that the Feigley Brothers pointed out, you were shown some of the scenarios the most favorable ones. You were not shown the others and that is not acceptable. The Mayor asked a question before on what are you going to choose between landfills and waste to

energy. He did not say there were lots of other alternatives that play into this picture. The most successful national is called Play as you throw and it is a way to encourages people to put more things in the recycling and compost all their food waste and related waste and would remove it from the trash. Dr. Green Holland from Lehigh University can't be here and she is the areas environmental expert. The name says it. We are making sure that the outcome of the project is fair and distributed among all the people and not having harm visited on some and the benefits usually on financial goes to others. A project will fails this standard if it disproportionately impacts low income residents, people of color or people that primarily language is not English or others that are less able to participate in the decision making process. It's about many things, air quality, noise, smells, traffic about health and quality of life. It was stated at the last meeting that DTE had an air quality permit from DEP and that is not true. They do have a waiver if they meet certain conditions. It is all based on the application that says this is a research and development facility and will not engage in the commercial sale of electricity to produce.

Mr. Elijah Lopento, member of the Industrial Workers of the World, stated that Mayor Pawlowski was here earlier speaking about two choices between his yardstick of trash over there and this plant, but that is not necessary the only choice. There are many different ways for waste to energy technology. Delta Thermo's expert was here speaking about how waste to energy is a better choice than landfills and that is true, but their technology that is untested technology is not the only waste to energy choice. He urged that Council would not vote yes on this before they can look at both of these proposals and run the numbers and actually make that choice on the two systems. He stated shame on you to all the union members that are here today and not here to stand up to Pawlowski's administration when forced the City Council to remove the pro-union PLA laws.

Mr. Steven Ramos, 24 N. 8<sup>th</sup> Street, stated that he is here for two concerns one concern is what they saw in Harrisburg this past year. They had high hopes for that facility and that ended up being the anchor that brought them down. He has a concern that five or ten years from now we will have that same weight on us. His second concern is on the environmental stuff. We are looking at the Morning Call article and they say that the facility is near zero levels of emissions, but they don't have the test. He stated that Councilwoman Mota went down to Egg Harbor Township to see the facility, but according to Morning Call the Environmental Protection Agency did not require a test for the company. Having a facility down here where we don't have any comparable facility if it is a dangerous facility to have it in the center of the city and right across the river from his family that lives on Bradford Avenue, he has great concerns. He is concerned with the daily burning for the people who live in the area.

Mr. Martin Boxinbound, Northampton County, stated that last time he was here he stated that he was a former teacher for the Allentown School District. He thanked Ms. Eichenwald, Ms. Mota, and Mr. O'Connell for voting against this project last time around. He is representing the Alliance of Sustainable Communities Lehigh Valley. We have four sustainable communities and focusing on sustainable communities we need to think on transition from our dinosaur economy that is dependent on fossil fuels which generate huge amount of waste, illness, and strife. In the communities with healthy people he would respect the environment and are based on local economy for human needs satisfying livelihood. It would be inappropriate to pigeonhole them as environmentalist let alone tree huggers. The planet and the communities need to provide a nurturing setting for our children and grandchildren visa vie jobs. We ask Council to turn away jobs that try to save the old ways of doing things. There are green alternatives. The facility will create about 100 temporary jobs while the city will eliminate five jobs and five pensions. Please say no again, or at least table it until you get more information.

Mr. Ben Greg, 3322 Bird Avenue, stated that he is a lifetime resident of Allentown and would like the Council to vote yes, and move forward with the project and take Allentown to the future.

Mr. James Eddinger stated that he is concerned about the environment. Anyone who has kids and grandkids has concerns about the environment and that's why he is in support of the project and he believes it is green energy. Everyone talked about having better ideas and things that we could do better, but that is not what you are voting on tonight. Those are great ideas and he would love to see it. The longer we delay the more problems we create here. With the traffic, currently, the sludge is being trucked out of here and you have truckloads of sludge going down the streets and neighborhoods. With this project, you will not have this anymore. He urged Council to support this.

Mr. Ernie Falco from Philadelphia and a Drexler student stated that he is very passionate about this and has ties to Delta Thermo. He had an opportunity to help them out in their plant in Egg Harbor. He is a steamfitter by trade and has about twelve years of experience in petroleum and refineries. He was exposed to benzene as well as his child when he was born and this is an alternative and alternatives are changes and people turn a blind eye. Where does your gas come from and about fifty guys have been exposed to that and are very passionate. Eighty percent of these guys probably will never work on this job, but it is something that we are passionate about and that is why you have a large turnout. It's not about money, it's about passion. Refineries are closing and we have to seek alternatives and he would like to lend his support.

Mr. Kevin Lewis 1592 Pineway Drive, Lower Macungie, stated that he is a lifelong resident of the Lehigh Valley and his parents live in Catasauqua and frequently they watch the Ironpigs fireworks poolside in their backyard and after reading the Morning Call after the February 15<sup>th</sup> meeting he took the time to call three Council members that voted no to express his disappointment. He had the pleasure of talking to Ms. Jeanette Eichenwald on February 16<sup>th</sup> at 11:30 AM for three minutes and twenty-eight seconds. Ms. Eichenwald told him that her number one reason again the plant were environmental issues that will arise and her quote was I will not vote to increase radon or asbestos to the atmosphere so I will not vote in favor of this plant. Before he could comprehend what this plant was compared to Ms. Eichenwald thanked him for his phone call and abruptly hung up on him. He stated that he is no expert although he has been to the information meeting, but does know that radon and asbestos are not a byproduct of combustion. On February 8<sup>th</sup> Ms. Eichenwald said in these Council Chambers to Dr. David McGuire, former president of the Allentown Environmental Advisory Committee she was in favor of this plant, but a week later she voted against it. He asks Council to do the right thing for the community and the environment. Over the last week he was pleased to read Mr. Guridy and Ms. Mota both took a tour to Delta Thermo facility in New Jersey and was impressed of what they saw and the reports were favorable because they educated themselves. A little education goes a long way. He wishes that the remainder of Council opposed to the plant will follow their lead. He does believe that it is not Council's job to regulate the environment so Council needs to vote in favor of the plant and let DEP and the EPA and local authority do their job. He thanked Council and asked for them to vote in favor of Delta Thermo Energy and the community, the economy and the environment.

Ms. Eichenwald stated that she did not say that. She stated that she is troubled by what Mr. Lewis just said. She would never make a statement like that; she is more intelligent than that. She had a conversation with Mr. Van Naarden and he told her the exact same thing and told him that she had said that. It troubles her that there will be these types of communications and for both of them to say that she something that she did not. She stated that one thing you should know about Jeanette Eichenwald I stand by what I say. Yes, I did the first time vote to release it from committee the discussion which is very different from voting for the proposal. There were many things she heard at the subsequent meeting that brought to her great concern and she exercised her right as City Councilperson. She hopes to be quoted correctly not incorrectly. She knows what it is she said and she is very concerned that both Mr. Lewis and Mr. Van Naarden mentioned the same incorrect quote.

Mr. Lewis stated that it was on February 16<sup>th</sup> at the meeting at 11:30, with three minutes and thirty-six seconds.

Ms. Eichenwald stated that she does not dispute that they spoke.

Mr. Kevin Lott, business representative for the Lehigh Valley Carpenters Union, stated that he did go to public meetings and represent close to thousand carpenters in the Lehigh Valley and likes to think he represents union and nonunion. He tried to create jobs that would create livable wages for all people that work in the trades. There is a lot of corruption in construction and a lot of people pay cash on big projects. Delta Thermo made a commitment to use highly skilled trained workforce. He hears things about other ideas and processes. Most people standing up here agree that landfills, taking our sludge and putting it in our neighbors cornfields and our neighbors fields and taking our garbage and putting in our neighbors landfill and polluting their waters and poisoning their children. When we truck all this, there is diesel and so much carcinogenic and diesels. This is a green job. We are not taking water out of the Lehigh River we are taking water from sewage plants and purifying it, making it pure and running it through the system and bring it back and put it back to the sewage plant. They are taking something that would create poison out of landfills and creating energy with no heavy medals coming out of the stacks. If that is wrong EPA will shut them down and Allentown is not at risk for that. There is a \$6 million bond that protects the city.

Mr. Bob Toth stated that he is here not only as a taxpayer, but representing the Allentown Republican Committee. He stated that Ms. Koval stated at the beginning of the meeting that March 3<sup>rd</sup> was the date they had an open house for people that were interested in the project, they could come and see what it is all about. See if they wanted to bid or not bid. On March 22, 2011, friends of Ed Pawlowski received a campaign contribution of \$1,500. If citizens for Toth got a campaign contribution for \$1,500 at once he knows of someone that would be doing back flips. Friends of Ed Pawlowski also received two more campaign contributions each of \$2,500 and it came from a firm Fox Rothschild LP Firm. Is that person affiliated with this company? He stated to Council they are the voters' first line of defense. You are the people to protect the voters and the citizens from a powerful executive branch. Sometimes there might be a good project and sometimes you might have to vote no to let that executive branch know where they stand on the system of checks and balances.

Mr. Gurdy stated is the company that represents the organization.

Ms. Nancy Meyers born and raised in Allentown and retired from the Allentown School District as a teacher and reading specialist with twenty-nine years, have been a union member, a union representative and she stated that she retired with twenty-nine years because she could not get to thirty. She was devastated by an environmental illness and had DDE in her body. She and her husband came about 7:00 this evening stayed in the hallway until 8:30 PM and watched the ten o'clock news and decided to come back because she heard on the news that council was kind enough to realize that there were an overwhelming representation of those who agreed that this was a good idea and she thought it could have been possibly a waste of her time and came back thing evening and thanked them for the consideration of their population here in Allentown with many different viewpoints. She asked how many of you are divorced, when you said I do for the first time and standing there were you planning your second and third marriages. No, you publicly promised until death do you part and in private went to sign papers. How long did those marriages actually last. She is sure at least thirty-five years. Along the way you brought a house and the mortgage was probably thirty years, not thirty-five years and in those thirty years seemed like a lifetime to pay off and along the way you probably re-financed and if so how many times. She is glad that roof on your perfect dream house also lasted thirty-five years along with the furnace too. You know where I am going with my statements. How often did you move? How many moves placed you in or out of Allentown and for how long? How many parents passed to their adult children your lifetime warranty? The one they

received when you were born. The one that said all their expectations and dreams for you were guaranteed. Talk to your parents now, to find out what they wanted and planned for your life education, health and finances. How long the pen of life deflated the balloon dreams they had for you. The Morning Call quoted the Mayor in saying that the City Council wanted the city to have no risks what so ever. This is the only way? Let's call the whole thing off. Sometime saying I can't is the better option than saying I do.

Mr. Christopher Cocca stated that he lives and work in the City of Allentown and pay taxes in the City of Allentown and hope to God that he can send his kids to school in the City of Allentown. He works for the Air Quality Partnership of Lehigh and Berks and also sits on the Justice and Advocacy Committee of the Lehigh Conference of Churches and in both of those roles he deals with companies that deal with union labor and labor issues and extremely of the justice and advocacy team at the conference and they talked about workers' rights and livable wages and disparity in our economy every month and is passionate about those issues. They are passionate about transparency and in his role as the outreach director for quality partnership he was able to reach out to the DEP on a conference call with Peter Crownfield and it is true that it is no permit as such in place as regards to air quality with DTE. Everything he understood with the permitting official in Harrisburg made it clear to us that what is in place now was an exemption that pertains to research and development kinds of things. If business is not as transparent as they should be, nobody wins. If we get locked in for thirty-five years we are negating better technologies that we know comes around every day.

Ms. Valerie Keystar from Crawford County stated she is the chairman of the joint municipal authority and made a five hour trip to come tonight and share news across our great Commonwealth. They have been talking to Delta Thermo for the last few months about bringing the technology west. They are excited that counties and cities across the state are certainly watching Allentown and excited about this new energy and excited about cleaning up Pennsylvania and the rest of United States. She came simply to support it because she thought it was worth the drive. She stated to the Council you have a nice city and she is impressed how the union members came out and the cops are great, they let her come in and out of the chambers.

Mr. Bruce Wilson asked about the RFP and if a feasibility study was done to define this RFP or was the RFP just drafted by the city people and city government that is just kicking this idea around. With the rising cost of disposing sewage sludge and trash collected in the city, it is responsible for the city to look for ways to reduce cost and produce renewable energy. To put out an RFP without a feasibility study to define the RFP is not the proper process for an RFP. To choose a company that has no plants that they ever built that is going to use this technology is beyond ludicrous it is lunacy. The proper path for the city to take is seek a feasibility study of the options of what to do with the city's sewage sludge and trash and produce renewable energy and then an RFP is put out from proposals from firms with proven track records and record of doing business in the industry.

Ms. Eichenwald stated that they do not have the answer; he would have to ask the administration.

Mr. Francis Lockney stated that he is here to support the Delta Thermo Project and thinks it will be good for Allentown financially, good environmentally and good for jobs. We are talking 75 – 100 construction jobs and about twenty green jobs for people working in the plant. He stated that he went down to Egg Harbor Township to see the model that Delta Thermo built and he spent twenty years working in power plants and he knows the different between a clean and dirty plant. He likes this system; it is a great combination of existing and viable technology and thinks it is a definite improvement over landfills and spreading sludge on the corn fields. He is hoping that they will vote for this project and with their vote Allentown could be the first in the country to do this.

Mr. Steven Pylon resident of Allentown since 1982 stated that he works at power plants, trash to steam plants, gas plants, nuclear plants, and coal fossil plants which eight of them are closing because there are problems. This is a step in the right direction that we need to take. This is a valuable decision to make.

Mr. Bernard Barcowski Jr., 1903 Hilltop Terrace, Bethlehem, stated that he moved here in early 70s and is happy the fact that he made a phone call to Ms. Mota and Mr. O'Connell and did not get to talk to any one of you, he got their voicemail. He wanted to plug his face to the one that called them in favor of this project and he wanted them to get the facts on this project and go see the mockup and you will have knowledge of what is going on here. You are going to put Allentown by voting for this project in the forefront of technology. You will have a lot of communities all the way from the Lehigh Valley to Pittsburgh looking at Allentown and wish they have done the same thing you are going to vote on tonight. He feels that he failed his children. He wishes we had a President like John F. Kennedy did and say I want to put a man on the moon in the next decade or make the internal combustion engine a dinosaur in the next decade and wants to use all the resources in this country and one of the biggest resources is this waste. It is piling on us and will bury us on this huge cloud of garbage. It is such a good resource we can turn it to something useful. It is an energy solution that he feels Allentown will be in the forefront and put us on the map.

Mr. Jim Shoemaker from Wind Gap stated that he is currently the mayor of Wind Gap and a retired steamfitter. They have eight to nine more years with the landfills and the transportation cost when the dump closes. He would like to make them aware of the problem they have in the Slate Belt they don't go through the problems his city did with the landfills. He hopes that Council will make the right decision tonight.

Mr. Shawn Townley lived in Allentown for twenty years. He stated that he took the time to educate himself and went to all the public meetings. He lives a mile away from the proposed site and it is his belief that the project is what they explained it would be. He believes it is great for the environment. He stated that he is in a loss for words because he is confused. The technology is there, and we are not using it. It is the best fit for Allentown's waste problem.

Mr. Joseph Pinto stated that he and his family live in Emmaus on 31<sup>st</sup> Street. When his family first learned about this technology and this project, they got excited about it. Not only on the possibility to take care of the environment that is a big plus, but about setting a standard. He stated to be part of a community that is part of the forefront to set the standard and see it take off. He and his wife said this is amazing. They started jotting down the benefits to the economy, the local workers and the future of his children. He asked Council to vote yes on this.

Mr. Chuck Harmony resident of Allentown stated that he went to the meetings at the east side youth center and was educating on what they were doing. As far as the technologies to say is it proven, he saw the films of each one of these technologies working separately and all they are doing is putting it all in one building. It is basically proven. He does not see why they are worried about that part. This is good for the economy and he thinks they should go with it.

Ms. Diane Taley, 1002 S. Bradford Street and owns the Allentown Art Works on Hamilton Street and Green Drinks that has been around for four years. She is also an attorney which a lot of people do not know about her because she hates public speaking. She feels so strongly about this issue she is going to make a point. She has respect for what the unions' stands for and why they are here today. They are not talking about the contract that is important. We are not hearing people talk about the legal and the financial ramifications and what the city is committing itself to. She appreciates what the mayor said about this might being a ten year term; she feels the document and the provisions should have been made available to the public. She as an attorney did not have an opportunity to review the changes that have been made

and she is assuming that means Council has not gotten Counsels opinions on those changes and she does not see how they can vote given those changes were made a few hours ago. It is not fair to the public without having the information. The City Council appointed an environmental advisory committee exactly for this reason. The city spent \$700,000 in development on this and she understands having to read the contract the city does not get the money back and DTE reimburses them with the grant money that they received. She does not know if City Council has taken this number into advisement in their budget in event that this contract does not go through and DTE is not reimbursing City Council. We are not talking about the five city jobs that will be cut from this. We are talking about ten to twelve jobs that are being created and in reality they are five to seven. The mayor stated that at the end of the ten years that the city would have the right to buy the plant and she does not know if they have the right to buy it or terminate. If it is old technology in ten years she does not know the city would be interested.

Ms. Julie Thomases resident of Allentown stated that how can Council approve this agreement if it does not have its own independent expert with an unbiased assessment. This unbiased assessment will serve as the checks and balances to what the mayor and DTE are saying. If you pass it tonight, you cannot go back. Council will commit the city and the residents of Allentown with thirty-five years of a contract that has not been reviewed by an unbiased resource and whose terms both financial and legal that is uncertain of. Council represents the people of Allentown and the only ones we could count on to protect us and she respectfully request that you table this vote until you question the assumption in this agreement.

Mr. Daniel Poresky, 824 N. Burke Street, stated that he is a member of the EAC, but is not speaking on behalf of the EAC but as a private citizen who has strong concern about this project. Initially when it was presented to the EAC and the city he was enthusiastic about it and he is still based on what they are claiming it is. The problem comes in when you start talking about that this is risk-free. The mayor stated to him and others that the Council wants this to be risk-free. Nothing could be farther from the truth. You are financing this for thirty-five years. You are paying more than what you are paying now and it is escalating every single year. You can complain like the gentleman did about the landfills and the landfills are making it very visible around there and he thinks if it happens here and you get things you don't want you can't shut it down, you have to complain and if you are lucky in a year you will get some actions with it and in the meantime the people in the City of Allentown is sitting with it. You certainly do not know enough to commit the taxpayers for thirty-five years to pay for a technology that you don't know is the best and what you do know when 15, 20, 25 years from now someone comes up with something better that will cost you less, you will have to say I'm sorry the City of Allentown is stuck with a decision I made years ago and you can't get out of it.

Ms. Betsey Levin, 558 Parkside Court, stated that she has been a resident of Allentown for thirty years and as the former manager of the recycling and solid waste she has become more alarmed listening tonight to this project. There are so many questions she has that are more than three minutes worth of questions. In 1988, when she was a teacher at the Allentown Business School there was an incinerator project that Allentown, Bethlehem and Easton tried to get passed and Bethlehem voted it down. It was over a \$100 a ton tipping fee and as the mayor said tonight we were running out of landfill space and the state passed mandatory recycling. She got her job in 1989 as the recycling coordinator for the health bureau and she did not know anything about recycling, she knew how to get people to recycle and she knew how to learn about it. She worked for the city for 18 years and 17 years directly in charge of recycling and solid waste. Allentown recycles between 18 and 20 percent of its waste depending on the numbers. She does not know what the current tonnage is, but waste management told her the waste tonnage is way down as she read in the paper and the Morning Call is doing a great job of this. She did not get involved because she figured it was going to pass and she has to applaud Ms. Eichenwald, Mr. O'Connell and Ms. Mota for voting against this. Once this is passed, it is passed and it is a done deal. She agrees with the Mayor that this is innovative, but as her mother says, if you can't say something nice, don't say anything at all and that is the

only good thing she can say about this project is that it is innovative. It used to be reduce, reuse, recycle and now energy interest has gotten that changed around. She stated that she was proud of what she did here and Allentown was a model program for the state, but we are not recycling a large percentage. We should do what the ACUA is doing and put out a real RFP for competing technologies and not just for RFP tailored to one company and one technology.

Mr. Joe Kaluchey, Ironworkers, 1733 Falcon Drive, Bethlehem, stated that the people have spoken tonight and we are for this project. He stated that he comes from New Jersey and as everybody knows all the landfills in New Jersey are filling up and what are we doing in New Jersey, taking our garbage over here. He stated that he has two little kids and realizes that everybody is afraid of change. He realizes what is going on with the future of this country. He does not want to be one of those ten years from now saying we should have, we could have, and we would have.

Mr. Dave Rickard, taxpayer in Allentown, stated that he is reading a book right now and the history of the Lehigh Valley Allentown, Bethlehem and Easton and throughout our history we had some bad times. Allentown put all its eggs in one basket in the iron industry, Bethlehem Steel came around and wiped it out and Allentown was hurt. They fell back into prosperity and did not keep up with the time. They did not keep up with the times. Thank God for the cement industry and the textile industry that developed here in Allentown and it grew and spurred the PPL Corporation. Mack Truck and Air Products came along later than that. It all was because it was a catalyst and the catalyst back then were guys like Hess that developed and was revolutionary in their fields. He commends the people that went to see the project and he believes it is a great project and something that Allentown has developed plans to come to the greatness that this city is all about. He stated when he was coming into the City he saw a sign that said the city without limits and he hopes that we could live those high expectations.

Mr. David McGuire resident of Allentown and the former chair of the Allentown Environmental Council stated that he is a Ph.D. scientist and grew up in a Milltown state in Pittsburgh. He is interested and his father took care of a people like those are here tonight. If you needed help his dad would help you. Thanks to the three councilmembers that voted no, no is an acceptable word and what part of no you don't understand. You don't vote yes, if you do not know what you are getting into and even tonight because three people voted no you have a contract that was so good that it has already been changes 35 to 10 years waste stream this and something else. There are plenty things in this contract that needs to be looked at. You have several financial type things, but there are substantive things for example: out of state waste or out of town waste. There is a concern about that and if you are not producing for the plant you are going to have to go out of town and there should be a clause in there that says no waste is coming into the city of Allentown. You cannot bring trash here that you can't take care of yourself unless it's a clause that says it is approved by City Council. He stated that he is a chemist and he studied this and probably one of the most knowledgeable person in this room. He has dealt with one of the city's experts from Lehigh University and gave seminars on this topic and believes the project can work, should work and it can produce a much less bad for the environment footprint than what we have. The contract stinks and has the possibility to becoming a thermo-nuclear financial bomb for this city. We want a project that is properly financed, has financial safeguards and will employ people in a safe way. We don't want the city to get bankrupt. We are on our knees financially because another contract we signed. Please tonight vote no or vote table.

Mr. Anthony Gallagher, Steamfitters Local 420 stated they have over 85 members representing the City of Allentown. They heard it all and three weeks ago RFP was never mentioned and if it was he missed it. Tonight the RFP has been mentioned quite a few times. When the RFP process is in motion that is the time to address an RFP issue. If you do not like the process that has been set in motion you have a responsibility as a councilmember to stop that process and protect the citizens of Allentown. We do not wait until the night of a vote to bring up an issue that was well addressed. Plenty of time has been

presented to the councilmembers to address this issue. Three weeks ago, it was dioxins, pollution and all sorts of things. Tonight, we are getting into contractual issue and issues of finances and city risks. How do you minimize risks? Long term....When you are investing money, you spread the risk over time. He is curious about the capital that the city is investing in this project. If he understands it correctly, it is privately funded money. The taxpayers are going to pay less on this project. The environment will be better for the citizens of Allentown and the landfill situation will be taken care of. He believes what the mayor says. The process has been fair, transparent and going on for two years.

Mr. Dennis Pearson, president of east Allentown Rittersville Association stated that early today they had a man that considers this project a project that is going to the moon. In order to get to the moon, the rocket going to the moon has three stages and three stages is what this plant is going to be about and in order to do the job properly all three stages must work. If one fails the rocket does not get to the moon and as president of the east Allentown Neighborhood Association he heard about the risks about what Mr. Young was saying financial and other stuff. If you say yes to this, we hope that this plant succeed for the benefit of those east siders who live near ground zero. He challenged new supporters that there is new housing being built and maybe empty that should just be built that these people are willing to live in east Allentown. If the Allentown Sewage Plant is not operating properly, it could cause operation problems for that.

Mr. Peter Suavely 1034 St. Elmo Street, stated that he is a retired Foreign Service Officer and was born and raised in Allentown and moved back after he retire four or five years ago. He is the fourth or fifth generation Allentownian and since he has moved back he has been very impressed with Mayor Pawlowski with the council people that he can follow their careers on the Morning Call and Channel 69 news. There is a lot of promising young talent and working for the city generally. He does not have anything to say for or against the environmental aspects of this issue although when he hears about incineration he is reminded of his friends that grew up by the Carlisle Street dump and what happened to their mothers, sisters and classmates that died prematurely of cancer. He does not have any expertise on contracts, but based on what he heard here tonight and the eyebrow things that were raised and literature he saw including the Sierra Club letter that was sent to you he must say that this project could be a great project, but it is not clear today. To take a leap without tabling it is premature and bordering irresponsibly of Council.

Mr. Jim Marley, east Allentown, stated that he heard people come up with alarming things about odors being in the air. There are no odors and they talked about dioxins and he believes that dioxins are also burnt at a certain degree and this plant will be well above that. It is alarming with the scary stuff that is coming out and the backing of the facts. He wishes Council will approve this project. He does not know much about the contractual end of it and he hopes someone else will do that and he hopes that they consider the 3,000 name petition that he gave to them.

Mr. Ken Pattrea, 11<sup>th</sup> and Washington, stated that there are a lot of people here tonight and remember one thing, you represent the citizens of Allentown, not anywhere else.

Mr. O'Connell asked if there were questions for Mr. Groen. He has two or three minutes. He can capsule the questions very eloquently in and two minutes.

Mr. Groen stated that he will do his best and generally speaking Mr. O'Connell as you know while it is limited to the public both pro and con the applicant has the ability to respond. He will try to make it and realize the latest of the night he will try to respond to as many questions and will suggest strongly that one of things and a lot of the issues that were raised felt it was the contract itself. He stated that the city has been well represented and said to Mr. Feller that he is not saying that because he wants him to say whatever he hopes is good. He will be the first to tell you that we had some good brownie points trying to put this contract together. He thinks the explosion made by some of the folks whether they meant it or not

in terms of your profession and experts that the city hired as if they don't count or did not mean anything are mindboggling to him. For the most part it is like the movie Target every time they have been here there has been a different target. People pretty much stated that it is going to work and he would like to acknowledge those members of the public, council and the administration for seeing the pilot program to see how it works. He wishes that everybody would have taken him up on that opportunity, not necessary to switch your vote, because at the end of the day, it is your decision. People that spoke against it would have gotten more knowledge and felt more comfortable. It is pretty clear and almost unanimously that people agree that landfilling is not the way of the future and not a good thing and agree that land application (putting sludge on landfills) is not a good thing or sustainable. The contract that has been spoken to and he will leave most of that to Mr. Feller they fought pretty hard on the request that the city made in terms of wanting to be hundred percent protected. They could have saved a lot of money or saved the city a lot of money if the city was willing to guarantee the bonds. The city chose not to and he understands. He could have saved a lot of money and the city could have saved a lot of money if the city had not insisted on a very significant amount of money to put in escrow to ensure that Delta Thermo had the capability to maintain and take care and make capital improvement that are required and out of our costs \$6 million of those costs the money is being put in escrow and that is a huge amount of money and cost a lot of money. The fact remains for the city's perspective and the city is not taking any risks. This is a service contract and Delta Thermo will be providing a service which the city will need whether it is with us or someone else. That service is to dispose of waste and the contract is written in such a way that if for some reason they cannot do what they said they were going to do they will be responsible for disposing of the city's waste at Delta Thermo's cost. Landfilling and they do not think they will get there, but that is that contract because the administration through its attorney insisted that it be zero risks. You are going to have to get rid of the waste regardless of what you do. You are going to have to get rid of your sludge whatever you do. There are some issues and questions about projections and things of that sort. They often meet with some folks and they cancel two or three times and we offered to bring them down. They said they were going to come and they did not come. They did not want the knowledge obviously. The fact is that the projections that your financial expert actually did were extremely conservative. You need to go back five years and see what the annual cost on average is in terms of your waste disposal. They are double what your contract calls for in five years. There was an expert brought in by the city that was an expert in P3, public, private, and partnerships and he stated that even if the city made no money it would be a good deal for the city because when you go back five years you don't see the cost of waste disposal increasing by the same amount each year. You see spikes. You see huge percentage in three years and then you see stability. You see it with electricity. You see this huge increase in one year and then you see stability. If the only thing this contract did for the city and for the government and resident from a financial perspective was to give you consistency and predictability. You know what your costs are going to be each and every single year. It does not matter if it spikes or not. This will not be paid by taxpayer dollars it will be paid by the solid waste fund. There was issued raised on Phase I or Phase II that we should agree to that and he is using this as example. There will be a Phase I because everyone wants a Phase I. Phase II is depended on what Phase I shows. Someone asked about Harrisburg, Harrisburg has a problem because it was a governmental entity. It was for \$250 million and has all the risks that are not in this situation. Delta Thermo does have the air quality permits. The city does have the right to inspect the plant with reasonable notice. On the job front, there were misstatements. On this job there will be at least 18 to 20 full-time jobs. We indicated that the first jobs to be filled will be for the people that lose their jobs. If we don't have to use the drivers and the other folks, they will have the first shot at it. We will have 80 to 100 construction jobs. Once this is open and running we hope to build a facility and plant in Allentown which will create 150 to 200 jobs. He stated that he is shocked and surprised and it is a free country should and everybody has the right to speak and all can make decisions. He asked them to consider and decide if they want to keep things the ways they are or do you want to take Allentown where it needs to be which is a leader in manufacturing and creating jobs.

Ms. Eichenwald stated that perhaps we are sending a wrong message. We are given legal representation more times than we are giving to the citizens of the community. When we stated in the beginning that it will be ten minutes, it turned into twenty minutes. The citizens and taxpayers of this community are going to bear to whatever happens with the contract with their health and safety and she thinks their voices should be heard.

Mr. Guridy stated to Ms. Eichenwald that Council spent at least five and a half hours listening to them.

Mr. Schlossberg stated that every single time we had someone to speak to this body we have given them an opportunity to address both Council and concerns of the public. He is glad it worked out how it did with the overflow seating capacity that they had here tonight. We always allowed people to respond. The first point brought up by the Feigley brothers was accurate in terms of the twelve cents floor and he would like that addressed.

Mr. Schweyer stated that in page 11 Section 6.2.3 it states that the 12 cents is for five years.

Mr. Feller stated that was addressed when Mr. Groen at the last meeting advised us that the twelve cents was meant to be a floor, we immediately changed the agreement to reflect that and it just was not circulated. It did make the change that the twelve cents was the floor and has been agreed to by the parties.

Mr. Guridy stated that the public had a chance to speak and he will not allow the public to speak on the same issue. That is not our rules and we follow the rules for everybody not just for this group. Please refrain from your comments.

Mr. Schlossberg stated that it was questions about the baseline of the assumptions. He talked to Scott Shearer about the assumptions in terms of the MSW delivered, the tons of sludge and the costs of electricity and all the items that were noted in the PFM financial analysis. Can you go through how the assumptions were generated.

Mr. Sale stated that the assumptions on the MSW are historic data from the City of Allentown. We went back through 2009, 2010 and 2011 and looked through the weekly flows of garbage and sludge and those went into the spreadsheets of electricity rates. We went over historic rates over the last ten years since the regulations to see what the trends looked like and looked at the landfill costs and went back 15 – 20 years to look at landfill escalations and all the assumptions that went into the spreadsheet. You could use different numbers and the three examples that we picked were numbers that were based on a reasonable analysis of past history and our best guess where the future will take us.

Mr. Schlossberg stated that Mr. Sale said GBB and the second firm actually had a different opinion and the two firms worked together to come up with these assumptions.

Mr. Sale stated yes, we worked independently of each other and at times we disagreed on some of the assumptions and eventually we reviewed each other's data and did more looking they were able to come to a common agreement on the assumptions on the spreadsheet. The electricity costs they may be more conservative on the future costs. The electricity that is in the spreadsheet as you may be aware that there have been a lot of coal fire plants being taken out of service do to the price of coal versus natural gas. With demands and less supply it will drive the rates of electricity so it may be more favorable to the city when the electricity rates go up.

Mr. Schweyer stated that he wants to see the document about the twelve cents and he would like to take it a step further and asked for a solicitor's opinion and if this contract in front of us is R-13 is different from what you have there, at the very least you have to make an amendment to incorporate this change and potentially other changes. We are voting on an agreement of a contract and if there is a change that is being made that is different and if that is the case he would like to read it into the record. He stated that he has in front of him and read the document.....for the period of five years commencing on the commercial operations date the guaranteed. Each monthly installment of the operating fee shall be reduced by an amount of electricity credit that shall be twelve cents for kilowatt hour or such a higher rate that DTE receives under the power of purchase agreement or other power purchase agreement which is equal to the actual price per kilowatt hour paid to DTE for electricity during the immediately preceding the month multiplied by 833050 hours. The electricity credit shall be an amount equal to the actual price per kilowatt hour received by DTE for electricity generated in the DTE facility immediately preceding the month multiplied by 833050 kilowatt hours notwithstanding the foregoing the event DTE has paid pursuant to the power purchase agreement or other similar agreements other than on a monthly basis the electricity credit shall be credited to the city against its next monthly payments on the same basis in which DTE payments under such agreement the city and DTE will jointly investigate the operations for the selling and the power in city which will have the right to assist attend and advise DTE and any contract negotiations of the power purchaser with respect to any contract which will be in effect after the guaranteed period. DTE agrees to provide sufficient notices to the city of any such negotiations and the city's inability to be present at any such negotiation shall not preclude DTE from conducted any negotiations during any period when the DTE facilities are able to generate any electricity and the electricity credit will be based on the price received by DTE for electricity generated by the DTE facility immediately preceding the month which DTE was entitled to reference pursuant to contract or otherwise revenue from electricity generated. He asked for Mr. Feller to explain that.

Mr. Marc Feller stated what he gave Council was a black line showing changes from an earlier draft. The only change of significance in that paragraph was the language of such higher amounts. It was 12 cents or such higher amounts. The other changes you read have already been in the agreement for the most part. For five years, we get 12 cents, a minimum of 12 cents or a higher amount is that DTE receives from electricity suppliers and after the five year period begins the actual amount that DTE is receiving as the credit. We are entitled to a credit for the 833000 kilowatts hours and so we multiply whatever the rate is by the 833 and that is a credit against our monthly payment we make to DTE and then they are provisions on the city's right to participate in the process of negotiating the power contract trying to maximize the revenue from the electric generating company. City advisors may have a better feel of the electric power industry than Delta and that might be a possibility in certain situations and they want to be able to provide input on maximizing the electric revenue.

Mr. Schweyer stated there is a question of the period of five years as opposed to an extended period of time. He asked Mr. Schlossberg to correct him if he is mistaken. He thought it was a 12 cent floor.

Mr. Feller stated that it is 12 cents for five years as floor. We get a higher rate if they get more than 12 cents.

Mr. Schweyer stated to Mr. Shearer that he has to admit that he was mistakenly under the impression that was the duration.

Mr. Shearer stated that the projections did drop down after the five years.

Mr. Schweyer asked Mr. Groen if the city can keep the 12 cents for the duration of the contract as the floor.

Mr. Groen stated that he needs some time to talk to his clients if that is what you want. He stated that the reason five years was selected was because we felt that it was safe from the city perspective in the future and when doing so based on the original amounts Delta Thermo thought was too conservative, they put back either \$280,000 or \$560,000 a year guaranteed. We guaranteed an extra \$280 or \$560 if we got it or not. We thought that five years was fair.

Mr. Schweyer asked Mr. Shearer the 11 cents projections for years six, how conservative is that.

Mr. Shearer stated that it is really conservative.

Mr. Groen stated that Delta Thermo will give you a 12 cents guarantee throughout the contract.

Mr. Schweyer asked for a friendly amendment of the amendment that he just wrote in for a period of instead of five years if the first line saying during the duration of the contract.

Mr. O'Connell stated that this goes back to what the talked about earlier and someone getting up and says we are hearing this for the first time for the RFP and hearing this for the first time. We are basically negotiating the contract in public at 12:30 AM. He stated that he is hearing this for the first time.

Mr. Schweyer stated that three weeks ago he heard it was going to be a 12 cents floor. The motion that is on the floor gets us that.

Mr. O'Connell stated exactly.

Mr. Feigley stated that the mayor should have done that. He did not negotiate a good deal.

Mr. Schweyer stated that he gets what Mr. O'Connell is saying.

Ms. Eichenwald stated that this is exactly what concerns her, what just happened here during the last twenty minutes after midnight. We were all under the assumption that change was done three weeks ago and now we are told that it wasn't. It has to raise concerns. What else, we are now talking about an amendment and negotiating on that side of the room and negotiating on this side of the room and that is exactly what concerns here on this process. She stated to Mr. Guridy that he would know more than any of them that once upon a time there was a discussion like this brought up this evening about the pension of the firemen and the administration told us one thing and probably if she was on City Council she would have voted for it based on what she is told and she wants to make sure that once again, they are not faced with this type of position. Anyone who has witness what has just occurred in the last fifty minutes has to be concerned and the information being received and how we are processing this process.

Mr. Guridy stated that Ms. Eichenwald is right to the extent and let him just say that this is not the first time they have made amendments to contracts. We have done that several times on the floor, however because of the issues that happened six or seven years ago with the contract, we had covered ourselves. We have personal financial advisor for us and our own attorney that works for us and looking at the interest in this contract in addition to our legal team. He understands the comparisons, but it is really not the same and he can appreciate bringing this up rather than having something affect us negatively. We are still feeling the pain of those pension negotiations. He would rather go through the embarrassment of going through something at the last minute than suffer at the end. He seconded the amendment.

Mr. Feigley stated that he was the second person that spoke this evening and presented Council with data that clearly shows what PFM did not show you. He brought up the concern about what he heard because

he was able to investigate it on February 8<sup>th</sup> where this discussion happened about the floor. He likes to clarify that the section stated that it was a fixed rate for the first five years of 12 cents and the financial projections were done based on a fixed rate of the first five years. Call it a floor or whatever you want, but it is fixed. Mr. Feller did not pull this out of his document until he was asked by Council if something changed. Mr. Feller had it stuff into his contract and pulled the page out only when Council asked. He wants to know why Mr. Feller did not present this updated contract.

Mr. Gurdy stated that we are not accusatory towards anybody. We have been told many interesting adjectives he must say. We treat each other with respect and let's continue that. I do not want to ask the police officer to take anyone out of this meeting.

Mr. Feigley asked what he did that was improper.

Mr. Gurdy stated that you were accusatory and your tone of your voice indicates that you are being a little argumentative and accusatory and we do not use that tone of voice.

Mr. Schweyer stated that the reason he did not pull it out is because he was specifically asked not to at that time. He was told by members of Council that we wanted to hear from members of the public first. He stated that he has another question about the Phase II environmental, but before they get there, they still have a motion on the floor.

Mr. O'Connell stated that he wanted Mr. Feller to respond to that.

Mr. Feller stated that he is fine.

Mr. Michael Donovan, 122 N. West Street, stated he just finished a four year term watching us many times wait to the last minute to make a decision. He does not believe that they ever tried to modify contracts of this magnitude at the last moment at 12:30 in the evening. He met with principals of this way back in the beginning and the documents that were given to him in the beginning were suspect based on his career experience and what he expects as due diligence and it is time that we are which negotiations are occurring at the last moment that makes him uncomfortable as a citizen and he saw enough in his four years of decisions that were made at the last moments to make him really worry as a citizen and he would recommend tabling this and make sure that the public sees a finished document and no negotiations occurs at the last moment.

Mr. Marco Bonilla, chief operating officer for Delta Thermo stated that he has an MBA in Finance and has to tell them that he has worked for many local governments. He was a senior partner with Deloitte and Touche the largest and most prestigious firm in accounting. He has to clarify that it is troublesome how some statements are made that are not necessarily correct. The work that PFM did, although it is conservative, it is a financial analysis that they did and the input they did and the city's advisors is first class. Some of the assumptions that were made even though they were conservative, they were asked precisely by Council to do it that way. In December, the former Controller of the city requested that it will be done and the base will be three percent and the other two were a sensitivity analysis and part of the public record that the Controller recommended it to the Council members and the Council members voted to that effect and that's why they had a base number that their advisors agreed with and the sensitivity analysis that was above and below that number. They did a very good job and we agree with it.

(Name was inaudible) stated that it is obvious that this amendment is only beneficial and should be passed, however, you should table this resolution and not pass this contract or project until it goes through a real review.

Mr. Schweiyer asked Mr. Feller that he wants to make sure that the language is right. The goal of this amendment is that it will be 12 cents per kilowatt for the duration of the contract.

Mr. Feller stated that is what he understands.

Mr. Feller stated that they will change the first line where it says three to five years and commercial operations and the language of such higher rate.

Amendment getting rid of five years and adding duration of the contract and at the kilowatt hour he is adding a higher rate or amount passed, 6 – 0

Mr. Schweiyer stated that they chose as a body not to have responses during public comment, the other note that he has from Jeff is the question of the Phase I and Phase II environmental. He does not have a change to the agreement. He is under the belief that this is covered under the notable exception of perhaps who pays for it. On page 7, Section 5 E the third line at that end including conducting a Phase II environmental site assessment. It already indicates and he is asking for Mr. Feller's clarification.

Mr. Feller stated that if they look at Section 5.7 it is a more direct requirement. It requires a Phase I and it is required. Phase II is if it is required. As Mr. Groen said Phase II are usually only done when something in respect to.

Mr. Schweiyer stated that he believes they are talking about Phase I versus Phase II. The specific and goal of this is kind of renting an apartment. You go in with your landlord and find out there are nicks in the wall and stains on the carpet and you are not liable for it, you move out and you put your own stains on the carpet. The Phase I is done and has been provided to the city. It is our land, we should have authorized it. This is not a make or break, but he wants to know if the city has the Phase I.

Mr. Bonilla stated that it has to be done.

Mr. Rob Van Naarden, CEO of Delta Thermo, stated that Phase I was completed. The DEP is very clear on what you do on a Phase I and a Phase II. There is no requirement that we found in a Phase I to do a Phase II. We are doing it anyway because we found colvaul in the land. Colvaul around here is pretty common and it is not toxic or dangerous, but we want to make sure there is nothing else in the land. Not because of what we are concerned about in terms of an environmental issue. We want to make sure there is a baseline if we would ever start building. The idea is to protect everybody. Phase I is a paper study and Phase II is boring sixteen holes in the ground and take soil samples and test them.

Mr. Schweiyer stated that in Section 5.3 it does say upon completion of the Phase II it will be provided to the city.

Mr. Van Naarden stated that if anybody wanted Phase I. That relates to a different issue and DTE rights to enter a property then it says upon completion of Phase II you make the report available to the city.

Mr. Schweiyer stated that they are doing it. To Mr. Crownfield and Mr. Chris Cocca and he has worked with Chris before as his role as chairman of Lanta and their partnership and there has been and there has been two things said about the issue about DEP. In the contract in one of the amendments it said it is required. He asked Mr. Groen or someone to speak to this issue.

Mr. Groen stated that the first is a waste permit from DEP, a zoning permit from the City of Allentown, building permits from the City of Allentown and the commonwealth does not require a permit, it require a land development and water quality approval and DEP storm water management.

Mr. Schweyer stated that failure to do so is a breach of the contract.

(Name was inaudible) stated that the city does not have to accept the facility if all those permits approval are not obtained and that is in Section 5.2.4. That is a condition of the city's acceptance of the facility to even start the contract.

Mr. Gurdy asked were there any questions at this time or any clarifications from any member of the public.

Mr. O'Connell stated that this is a difficult decision and he left these chambers of Wednesday, February 15<sup>th</sup> and voted no on this proposal. He never thought at that time that this was a union issue. Obviously, he was wrong. He stated that he received many called from union members and union officials who were extremely polite and courtesy to him throughout the conversations. He has a responsibility to the citizens of Allentown to do what is right for them. He wants to create jobs for Allentown and for the Lehigh Valley. He stated that he has a son that has been unemployed for three years and he feels they pinch. He supports unions, his father worked at Bethlehem Steel for thirty years and said to him at one time when he was a youngster many years ago, organized labor and I said what is organized labor. This is organized labor. He does not need to blow smoke and applaud them for coming out tonight and fighting for job creation in the Lehigh Valley, but he has concerns about this Resolution. He goes back to the minutes of February 15<sup>th</sup> and has much respect for Mr. Sale from Lehigh University and Mr. Feller and we talked about this and we said we had two engineers and one said yes and one said no. Mr. Sale, obviously for the city said yes. Then there were questions going back and forth that said there will be minimal possibility of dioxins in the atmosphere; however there will be dioxins collected in different points in the process. Then he continued to press the issue and said that dioxins have been characterized by the EPA as likely to be human cancer causing and risk of cancer as background levels of exposure. He asked at that time is that statement true or false. The response was I am not qualified to comment on the human exposure which was very fair, he then follow-up to ask if dioxins were harmful to human beings and the answer was yes. He goes back to what Mayor Pawlowski stated when he was here stating he wants to leave a legacy to the children and grandchildren of Allentown. He too wants to leave a legacy of the children and grandchildren of Allentown who he has worked with and fought issues for thirty-eight years when he worked for the Allentown School District. He wants to create a safe and healthy legacy for the children, the grandchildren and future generations of Allentown.

Ms. Eichenwald stated that she too want to thank all the members of the unions that came here. She received many phone calls and she was really grateful to receive them and pleased to hear directly from you. She also received many phone calls from people who were concerned about the environmental issues and the fact that the contract was for thirty-five years, many concerns about what the contracts says and what it did. She stated that she wants to tell them about one incident that happened to her that brings her great concern about this particular contract that we are talking about. She stated that she agrees that landfills are not the answer, but just because landfills are not the answer does not mean that a contact with Delta Thermo is the answer. She is very interested in pursuing other technologies. She thinks as stated here earlier this evening we were told there were about twelve companies in the United Stated to deal with this and they were not given an adequate opportunity to present their cases. We heard the timeline on the RFP since March of 2011 when discussions of Delta Thermo started earlier. She is not in favor of using only landfills, she is very much in favor of exploring new technologies and other ways to use waste to energy or waste to compost or all those other myriad technologies that may appear in the next thirty-five years. It is this particular contract with Delta Thermo that concerns her. One phone call that she received

was from her clergyman and he had received a phone call from Mr. Van Naarden who is the CEO of Delta Thermo, and Mr. Van Naarden called her clergyman to ask him to speak to her to get me in line. Before that can take place that meant that her religious affiliation had to be investigated. Her connection to that religious institution also had to be ascertained and investigated. It had to be investigated in which the religious institution where she belonged and who was the clergyman of that institution and she found that way beyond what was appropriate. When I or you deal with companies in your professional life, in your personal life and the six of us here in City Council none of us would feel comfortable if our private, personal lives including our religious affiliation became part of this discussion. That frightens her very much and she asked Mr. Guridy in his office now as City Council president to make sure that something like that does not occur and there is no more investigation in one's private life when a City Councilperson is making a decision of this magnitude. She has spoken over the two years about her concern and the bottom line for her is the thirty-five years of investing in a particular technology. Who knows what is yet to come. Who knows what new technologies would be developed in the future. She understands that the three components work and does not argue with that at all. Her concern is when you combine all three and she heard a discussion about a car so the tire works and the engine works and the chasse works and we all know when you put these three components together we are not certain that they will work and that concerns her. We as Councilpersons have a collegial environment and we work together and let us agree that landfills are not the answer. Let us agree that we will look for technologies that do. The disagreement that we have is whether or not this company and this contract in the best interest of the citizens of Allentown. She stated that if she is wrong and this is the best opportunity and the moment what will happen, the city will be at a financial loss, but if she is right that there are concerns with this contract and we go along with it what could possibly happen then. There might be dangers to the environment. One consultant that was hired by the city GBB stated and she will quote from the newspaper "the consultant was not able to verify Delta Thermo's claim that the Allentown plant would have near zero levels of emissions. What will happen if there are emissions to the environment and how will that impact the citizens and of course we know the most important one is the children. We also know to be the first in technology also creates problems who will still want to own the first microwave, the first TV, the first computer, etc. who will want to be the owners of that and have only that technology for thirty-five years. We have to be cautious because it is not just for ourselves we are voting, but the citizens of Allentown. She suggested to vote this contract down and yet, continue with all of our strength and all of our might to seek what is the best solution. Let's look at other companies and other technology. None of us in our own private lives will go to one store and look at one product and buy that. Wouldn't we look at other avenues and seek other opportunities? She urged her colleagues to vote no to this Delta Thermo agreement.

Ms. Mota stated that she has been listening very quietly to her colleagues and listening to people in her community and she believes they have a lot of concerns about the environment, but this is how she sees it, she has three children and a two month old, a twelve year old and a twenty month old child. She wants the best for her children and the community here in Allentown and she has the same concerns as everyone does, the environment so what she did was that she took the initiative a couple weeks ago to see the actual model at Atlantic County and she was really impressed. We brought sludge with us and three pounds of garbage and they saw the whole process. She was concerned about the odor and to be honest with you, it had no smell. She is in shocked that there a lot of things in the contract that they were not aware of, but hopefully by tonight it will be resolved. She believes it will be a good thing for the city and that's her humble opinion.

Mr. Guridy stated that he has been looking at this for the last two and a half years and there have been many things that have been changed throughout the period and he likes Ms. Mota who took the initiative to go to Egg Harbor Township and saw the model and he was not that impressed because he knew it was going to work because he saw it and read about it and he also read information from others. All you have to do is Google it and you will see a lot of it and read a lot of things if you have the time to do it. He also felt

that it opened his horizons a little bit more and learned a lot more than he thought he was going to learn about waste to energy type of system which he is grateful for. He heard people say that people were not given the opportunity and he has the bidders' list of thirty-eight, two sided companies that have been invited to bid on this and out of the thirty-eight two applied and out of those two one of them are actually a financial insolvency so Delta Thermo is what we have left. That does not mean we have to take it, we have to feel it is the right thing and he actually feels that it is the right thing for the City of Allentown. There were two things from the contract that Council looked at today and they pretty much knew it had to be clarified and a small amendment and something they done many times before. This project is going to create jobs and he read a lot about the landfills and the greenhouse gases that it produces and he found out that this is going to be good for our environment. He went over a touch it and he is not scared of it. People are cautious of changes and he is proud of changes. He was born in the Dominican Republic and moved to Puerto Rico and from Puerto Rico, they came here. He stated that when his family came here, they had nothing and at the age of fifteen he could not even speak English and he has been given an opportunity to live in the best country in the world. He and his wife had a travel agency for thirteen years and he traveled to at least twenty countries and he seen the countries and he was just in Europe and sees how Europeans are in Spain and Portugal and he could vouch that this is the best country in the world and he wants to leave a legacy because this country has given to him and his family a lot and he wants to give back to the future of this country and his three children and his two grandchildren and he wants to make sure they have a better life. He wants this country to be a better place to live than what he found it when he came to this country and because of that he is fully confident that this will work because he has seen it and will vote yes on this.

**Resolution passed, 4 – 2 (O'Connell, Eichenwald)**

Mr. Gurdy thanked all that came for it and against it. He stated that this is democracy at its best.

**11. ORDINANCES FOR INTRODUCTION:**

**Bill 9**

**Referred to Public Safety**

Amending the 2012 General Fund Budget to provide for a supplemental appropriation of Nine Hundred (\$900) Dollars as a result of a donation from Tilted Kilt Pub & Eatery to the Police Department K-9 program to provide necessary equipment.

**Bill 10**

**Referred to Public Safety**

Amending the 2012 General Fund Budget to provide for a supplemental appropriation and transfer of Twenty-Nine Thousand Two Hundred-Fifty (\$29,250.00) Dollars as a result of a PEMA reimbursement for the purchase of EMBERS, a complete Incident reporting and records management system for the Fire Department.

**12. CONSENT AGENDA: None**

**13. RESOLUTIONS ON SECOND READING: None**

**14. RESOLUTIONS ON FIRST READING:**

**R9**

**Referred to CEDC**

Authorizes Submission of an RACP Grant for Phase II of the Butz Corporate Center

**R10**

**Referred to CEDC**

Authorizing the Submission of a Grant Application for the Enterprise Zone Program

**R11**

Adopts the Allentown Emergency Operation Plan (AEOP) As Amended

Mr. Scheirer stated that the Emergency Operation Plan is the Plan that you adopted last year and as a result of the changes and the command sections they needed to add Mr. Dougherty and Mr. Guridy.

Mr. Guridy asked if there were any questions from his colleagues or the public.

**Resolution passed, 6 – 0**

**R12**

**Referred to Parks and Recreation**

Supports adoption of Swimming Towards the Future – A Plan for Allentown Pools and Spray Parks

**R14**

**Referred to Budget and Finance**

A resolution of the governing board of City of Allentown, Lehigh County, Pennsylvania, authorizing, empowering and directing the proper officers to execute an agreement with Berkheimer where under Berkheimer is retained as the exclusive tax officer for the collection, administration, receipt and enforcement of the provisions of the respective tax enactment of the governing board levying and assessing the local services tax for the term herein defined, together with such extensions as may be agreed upon, said tax enactment having been adopted under and pursuant to the authority of the Pennsylvania local tax enabling act; and approving and adopting the rules and regulations prepared by Berkheimer to administer and enforce the local services tax.

Mr. Schlossberg asked Mr. Dougherty was this same Resolution from last year and all we did was designate Berkheimer as our tax collection unit. Are there any substantial changes?

Mr. Dougherty stated that is correct.

Mr. Schlossberg stated if it is ok with Mr. Guridy and Council they might as vote on this tonight.

Mr. Guridy asked were there any issues or comments and questions from the public or Council.

**Resolution passed, 6 – 0**

**15. NEW BUSINESS**

**16. GOOD AND WELFARE**

Mr. O'Connell stated that Mr. Hanlon should be commended because he sent out the agenda and stated that it would start at 7:30 PM on Wednesday, March 7<sup>th</sup> and it was going to end on Thursday, March 8<sup>th</sup> at 1:00 AM. You are only fourteen minutes off.

**17. ADJOURNED: 1:14 AM**

A copy of the MP3 file of the meeting is available at the City Clerk's office.

*Council meetings are held on the first and third Wednesday of each month beginning at 7:30 pm in Council Chambers. For copies of the agenda or meeting announcements, please visit our website at [www.allentownpa.gov](http://www.allentownpa.gov) or contact the Clerk at [Michael.Hanlon@allentownpa.gov](mailto:Michael.Hanlon@allentownpa.gov) to receive an email notice of the meetings.*