

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



**Allentown City Council**  
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**COUNCIL MEETING MINUTES**  
**May 16, 2012**  
**COUNCIL CHAMBERS**  
**7:00 PM**

**1. Invocation: Ray O'Connell**

**2. Pledge to the Flag**

**3. Roll Call:** Davis, Eichenwald, Guridy, Mota, O'Connell, Schlossberg, Schweyer  
Frances Fruhwirth represented for the Solicitor's office.

**4. Courtesy of the Floor**

Mr. Ernesto (inaudible), 2605 W. Walnut Street, translated for Julio Moreno, president, Lehigh Valley Spanish Soccer League. He asked about the vendors who sell food at the park and complained about permits. He stated that he has permits and they want to charge him. He has a permit and they are not allowing him to do it.

Mr. Guridy asked if Mr. Moreno has a permit to sell food during the soccer games and who is not letting him sell the food.

Mr. Ernesto stated one of the inspectors at the park. They show a permit about the rules and he wants to know what is the problem.

Mr. Guridy asked did he get a permit from the health bureau.

Mr. Ernesto stated yes and they said it is \$1,000 and they have the permit also.

Mr. Guridy stated that the director of the health bureau is here, Vicky Kistler.

Ms. Kistler asked what food he was trying to sell that they did not allow him to sell.

Mr. Ernesto stated that they are prepared at the same time, meats and whatever they are allowed to do in the parks. The city charged him \$4,000 for no reason and he wants to know if something is wrong with that. He never made a contract with the city.

Ms. Kistler stated that they can sit down and discuss the specific issue; however, we need to make Council understand is that there are a limited number of permits available for each soccer game. There are also high risks foods that cannot be sold. Raw fish cannot be sold unless maintained in a temperature. Food prepared in a home kitchen cannot be sold unless it is prepared in a commercially licensed kitchen or prepared right there on the spot at the soccer game. She and Gary Ritter will sit down with him and clear this up.

Mr. Guridy stated that they will hand it over to the managing director, Mr. Dougherty and he will work with you on this.

Mr. Ernesto stated that Mr. Julio Moreno asked why he has to pay for one day a week for five months he was charged \$3,500 just to use the park one week per month for the four months.

Mr. Dougherty stated that there were quality of life issues in terms of requiring a police presence in the community. He will sit down with Mr. Holtzman and Mr. Arcelay who have been involved with this in order to get a better understanding.

Mr. Guridy stated that Mr. Holtzman and Mr. Arcelay will meet with Mr. Moreno.

Mr. O'Connell stated that some of the miscellaneous would be for the rental of the fields. We don't give the fields out for free. He stated that it would not be all for police presence.

Mr. Moreno stated that in different countries they do not charge for the park.

## **5. Approval of Minutes: May 2, 2012**

Approved by Common Consent

## **6. Old Business**

Mr. Guridy stated that Council has an executive session held on Tuesday, May 8<sup>th</sup> at 5:00 it was about a quasi-judiciary deliberation for the purpose of proposing a curative zoning amendment submitted by Agere Systems and Allentown Trust, L.P. for the property located at 555 Union Boulevard. This is the former Weston Electric Site.

## **7. Communications**

Mr. Guridy stated that it will be a public hearing on June 18<sup>th</sup> at 6:00 PM in Council Chambers to discuss the challenge of the city's zoning ordinance and the curative amendment request by the Allentown Trust L.P. at the same the site, 555 Union Boulevard and on June 20<sup>th</sup> at 6:45 PM there will be another public hearing on Bill 29 – Subdivision and Land Development Ordinance allowing the submission of the combined preliminary final plans. The Bill was introduced on May 2<sup>nd</sup> and recommended favorably to full Council by the Community and Economic Development Committee.

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

Budget and Finance: Chairperson Schlossberg

The committee met this evening; the next meeting is scheduled for June 27<sup>th</sup> at 6:00 PM.

Public Safety: Chairperson Eichenwald

The committee has not met since the last Council meeting; the next meeting is scheduled for June 6<sup>th</sup> – one of the items at that meeting will be the handicap parking issue.

Community and Economic Development: Chairperson Schweyer

The Committee met on May 8<sup>th</sup>; the next meeting is tentatively scheduled for June 13<sup>th</sup> – with a possible tour of HIVE.

Parks and Recreation: Chairperson Mota

The Committee met on May 8<sup>th</sup>; the next regularly scheduled meeting is for June 20<sup>th</sup>.

Public Works: Chairperson O'Connell

The Committee met this evening and has four items that they will be discussing later on the agenda; the next meeting is scheduled for June 13<sup>th</sup>.

Human Resources, Administration and Appointments: Chairperson Davis

The Committee has not met since the last Council meeting; a meeting has been scheduled for June 6<sup>th</sup> prior to the Public Safety meeting – tentatively at 5:30 PM to review an amendment to the ethics code.

Rules, Chambers, Intergovernmental Relations and Strategy: Chairperson Guridy

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

### **OTHER COMMITTEE REPORTS**

Mr. Guridy stated that there were two wonderful articles one in the Morning Call and the other in the Express Times about the sale of the 56 properties at the Overlook Park and in this economy housing are not being sold and we sold 24 residential properties in two years and 26 subsidized properties, kudos to Allentown.

#### **Controller's Report**

Ms. Koval stated that she had nothing for Council this evening.

#### **Managing Director's Report**

Mr. Dougherty stated that preparation for the 2013 Budget is well underway. The finance office has been conducting advance budget training for key personnel. Training them in the new module for the Eden System which we know that it will significantly improve and streamline how budgets are completed and reports are generated and shared with Council. As you can see, our health director is finally back and we are very happy about that. He wants to update Council on the police department's text tips hotline. The text tip hotline was launched on April 20<sup>th</sup> and the police department received its first tip on April 20<sup>th</sup> in the evening. The activity from April 20<sup>th</sup> through April 30<sup>th</sup> they had three tips received via cell phone and 11 received via city website link. The activity from May 1<sup>st</sup> to 16<sup>th</sup> they had six tips received via cell phone and 15 received by the city's web link site. The tip line is averaging about 1.3 tips per day. Three separate days have produced four tips a day and several tips have led to open investigations which has netted one arrest at this point. Most of the content of the tips to police have been to drugs and suspicious neighborhood activities.

### **9. APPOINTMENTS:**

#### **Electricians Examining Board**

<u>Name</u>		<u>Term to Expire</u>
Roger Mabus	Reappointment	01/24/2014
Ronald Kromer Sr.	Appointment	04/04/2015
Michael Taylor	Appointment	01/24/2014
James M. Karapelou	Appointment	04/18/2015

Mr. Schweyer stated that Mr. Mabus is here tonight.

Mr. Guridy asked Mr. Mabus would he like to say anything.

Mr. Mabus passed.

Mr. Schlossberg stated that he would like Council to vote on these four individuals as one.

Mr. Guridy asked were there any questions from the floor or comments from the public.

#### **Resolution passed, 7 – 0**

Mr. Schlossberg made a motion to suspend the Rules to bring forward R 27 to the front of the agenda.

Mr. Schweyer seconded the motion.

### **13. RESOLUTIONS ON SECOND READING:**

#### **R 27 Resolution 23 N 6th Street Encroachment**

Authorizes the installation of steps for 23 N. 6<sup>th</sup> Street side on Court Street

Mr. O'Connell turned it over to Mr. Young and stated that he will follow it up with a comment.

Mr. Young stated that this is for installation for steps for Symphony Hall on the Court Street side. The current steps are in pretty poor condition and by doing this, the steps would exceed the 1/3 distance from the property line to the curb line therefore city staff had to reject the proposal and they are appealing it to you. The city staff does not have a problem with the proposal.

Mr. O'Connell stated that the city's administration does not have a problem with the proposal. Sheila Evans that is representing Symphony Hall was here and gave a presentation. If there are no objectors the Committee supports this 3 – 0 to the entire Council.

Ms. Evans asked if there were any questions for Symphony Hall.

Mr. Gurdy asked were there any questions or comments from the dais or the floor.

**Resolution passed, 7 – 0**

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

#### **Bill 25 Old Allentown Streetscape Project**

Amending the 2012 Capital Project Fund Budget to provide for a supplemental appropriation of Seventy-Five Thousand Dollars (\$75,000) from the Hamilton Street Reconstruction Capital Project to the Old Allentown Streetscape Project.

Mr. Schlossberg stated that Bill 25 they did not move on. Bill 25 they did not vote it forward. That was the Capital Projects Transfer.

Mr. Gurdy stated that it will remain in committee.

#### **Bill 26 Establishes Accounts for Waste to Energy Grant Funding**

Amending the 2011 Solid Waste Budget to provide for supplemental appropriations of One Million Dollars (\$1,000,000) from the Department of Energy and Two Million Dollars (\$2,000,000) from the Commonwealth Finance Agency.

Mr. O'Connell stated that he will let Mr. Dougherty, Ms. Giguere and Mr. Young talk about it and what the pass through money is all about.

Mr. Schlossberg asked what was the vote in Public Works.

Mr. O'Connell stated that he will tell him after.

Mr. Dougherty stated that what is before Council is a component that they are now dealing with in the aftermath of having a signed binding contract with Delta Thermo now that will allow Delta Thermo and us to begin drawing down some of the grant monies that have been awarded to Delta Thermo as a pass through to the City of Allentown. With the specifics he will leave to Rich and Lauren about the logistics of the grant itself. We are dealing with a binding contract and we have legal obligations and fiduciary responsibilities.

Mr. Rich Young stated that these are pass through grants that Delta Thermo was the applicant for and it is for this project.

Ms. Lauren Giguere stated that it is the city's responsibility to oversee the grant funding and make sure that the reimbursements that are made just like any grants whether it is pass through or not, we are responsible to make sure that the funding is spent on appropriate expenditures and the match funding is also spent appropriately. In both cases, both the \$1 million grant from the Department of Energy and the \$2 million grant from the Commonwealth Finance Authority through the state of Pennsylvania require a match and we have to make sure that the match funding is also in place prior to the release of funding.

Mr. Young stated that the match is Delta Thermo's funding, not the city's funding.

Ms. Giguere stated that the Department of Energy Grant is for \$1 million and it covers phase I research and development funding for pre-construction costs. It is not for the construction of the facility itself, it is for the engineer and design of the facility. The Commonwealth Financing Authority \$2 million grant is \$700,000 is for equipment and remaining is for the engineering for the facility.

Mr. O'Connell stated that the recommendation of the committee was forwarded unfavorably 2 – 1 with Ms. Eichenwald and him voting no to accept the money and Mr. Davis respectfully voted yes. We are forwarding it to the entire council at this time unfavorable 2 – 1.

Mr. Guridy asked was there any comments from the dais or the public.

Ms. Julie Thomases, chair of the Allentown Environmental Advisory Council, read the Environmental Advisory Statement notice (attached)

Mr. Daniel Poresky, Allentown, stated that just so he understands, it is fair to say that the people that voted for this have rethought it and decided that you have changed your mind that you are no longer for it that you could use this opportunity to say no even though you have binding contract. You have the prerogative to say no to this because you think this is money that may not be spent responsibly. Do you have that authority? Even though you have a binding contract, it is your responsibility and that's why you have the opportunity that you do what is right for Allentown. The key thing is that Allentown has a system for waste disposal, it is working well. He is trying to understand and maybe someone can explain it to him. What is the problem here, why are we willing to turn over our trash disposal, not for a trial, but committing it for 35 years and de-incentivizing all the options of better systems that come along? Places around the country are doing a great job reducing waste. We could and this program causes us to maintain the waste or we lose money. Even if we didn't lose money and even if it was modest pollution, even if they did fix things right away, what is worth the risk? What are you gaining by saying yes to this? It is a tremendous amount the city could lose. The city has a lot to lose here. Even if it had a little to lose, what does it have to gain? Unless you can come up with a compelling reason to be able to say to the citizens that you are doing it for their benefits and this is why you could list all the reasons and that if you don't do it, these are the things that are going to go wrong, he does not think you have a responsibility to reject it. He can't come up with any other things.

Mr. Guridy stated that they gave all the reasons and they have a contract was not done on a concubine relationship, but it was very surgically agreed upon and written. It was the contract that they spent five hours listening to people and now it is approved. We are just voting on the money. We are not voting on the contract, we are just voting on the money.

Mr. Poresky stated that it is an opportunity to revisit the contract. He was told that they do have the obligation and opportunity.

Mr. Guridy stated that we are not doing that today. This Bill is only to use the pass-through money. We can say yes or no to it.

Mr. Poresky stated that he heard that if they feel that you have rethought this and realized that this Bill is not in the best interest of the community that you are giving the opportunity. If you weren't given this opportunity and if you didn't have a choice and you had to say yes, why you were asked to vote on it anyway. This is an opportunity to make things right.

Mr. Guridy stated that people can vote however they want to vote today. He agreed with Mr. Poresky.

Mr. Poresky stated that the contract was review on the point of view of what this city has to gain other than feel good.

Mr. Guridy stated that is your opinion.

Mr. Poresky stated that is your words.

Mr. Guridy stated that he did not say that. He never said that.

Mr. Rich Fegley stated that his family owns the Brew Works here in town and he is a citizen of Allentown. He resides at 1002 S. Bradford Street. As Council knows except for the new member of council, he is opposed to this incinerator project. He presented to Council at the last meeting where the vote was made some scenarios that were presented to them, financial scenarios which really showed the breakeven point and optimistic case views. There were never anything conservative or showed the worst case view. Council was presented those numbers and if you have a chance to look at them you would see the city would lose a significant amount of money over the thirty-five year contract. He pointed out that Dan and Julie both represents the environmental advisory council that was created by the city administration and voted on by the city and created to advise council and the city about environmental concerns. He would have to agree that if you look at cities that are progressive none of them are doing anything that has anything to do with incineration. This will be the last thing on their list for them to do. This \$3 million that is being passed through for the contract could have easily have been passed on to other projects to reduce waste and create many jobs within the city. He stated that he is opposed to this and they have a chance tonight to vote against having this money passed through to DTE.

Mr. Jim Brohurt stated that he is a delegate for the Industrial Workers of the World (Labor Union) and his primary concern is the environmental impact of the project. He was here the night of the vote and was not able to make a public comment because the line was out the door as you remember. Regarding that there was a gentleman that represented Delta Thermo speaking and an expert paid by Delta Thermo speaking. There were three components to the incineration process or Waste to Energy process and they mentioned that they never been tried in the same place before. They gave an example of South Korea where in South Korea the garbage is gathered in one location as pellets and taken somewhere else to be incinerated which implies to him that it is not healthy to burn inside the city or a congested area. Those were the researchers

from Delta Thermo. He stated for the record if the city decides on an environmental agency that was setup by the city and the city hired experts to investigate the environmental impact on this untested technology.

Mr. Fran Dougherty stated that there were two independent engineering firms that engaged with independent analysis that advised the city.

Mr. Brohurt stated that he does not have anything to write with, but would like the names of those firms.

Ms. Eichenwald stated that she would like to respond to the issue of the people that were the experts that were called to study this. The gentleman from Lehigh University was in favor of it and there was an extensive study made by a company that had many experts in various fields and beyond the boiler expertise from the gentleman from Lehigh University. That report negated the environmental effectiveness of this report. It was very difficult for us to receive a copy of it and to the very end of the discussion they did not ever receive the entire copy of that report.

Ms. Dawn Laberto, 1644 Walnut Street, stated that she has lived here her entire life and has worked here as a nurse for the past six years. She is finishing her degree as a certified nurse mid-wife and here to address the health concerns that she sees that may arise with this incinerator particular undue burden of the next generation and the unborn. She stands before them with a genuine concern and love for her community and asked that they not pass the resolution. The pollutants released into the environment by this incinerator will likely have long-term effects and increasing birth defects, developmental delays, miscarriages and other devastating pre-natal complications for mothers and children. Perhaps it is abstract to you to imagine how devastating an infant dying before it even had a chance to live or realizing the lifelong sacrifice and struggles of parents with special-needs children face every day. She has worked in maternal and pediatric populations and has witnessed these struggles first hand. Perhaps they might not realize is the invisible health cost of this incinerator. Dioxins for an example and they are one example of the many pollutants released into the air through this project. Readily crossed the placenta barrier and therefore creates an undue burden of some of our community's most vulnerable population, our children. What you are doing and what you are asking us to do is trust that a corporation with their best interest for profit in mind will remain accountable to health codes. This is either naive or negligent on your part to think this is a good idea. In reality you must be the ones that protect the city's long-term interest. You are the elected representatives and you presumably want Allentown to be better, safer, cleaner and possibly more attractive to live in. There are many ways to do this, but sacrificing long-term health and environmental safety and community welfare and quality of life for whatever short-term gains you perceive the plant gives is not the way to do it. She asked that do not fund this project and if anyone would like her to email them studies reporting the effects of dioxins and cancer she would be more than happy to do that.

Mr. David McGuire, 223 N. 19<sup>th</sup> Street, stated that he has served on the Allentown Environmental Advisory Council for three and half years until the end of December in 2010. In the year 2010, EAC was brought in by the city to talk with Delta Thermo about the whole project. Then it went on hold for contractual reasons and had to be put out for bid. During 2011 EAC received absolutely nothing about the project and then in 2012 January or right at the end of Christmas time the project was brought forward and then the avalanche of documents to which Ms. Eichenwald recounts which is still are not accounted for started pouring in. It was a funnel of a mammoth marathon deluge of information, changes at the last minute including the opportunity to buy the project without further discussion. He personally thinks, speaking as a citizen and regardless of his connection with the EAC, he is speaking as himself. He thinks that there are some procedural things that are pretty weak and may lead to some lawsuits which should be a concern to anyone and Council would be well advised and the city would be well advised to go back and review these things, less an arena type situation. Specifically about this, as a citizen it is absolutely irresponsible to sign three and half generations of Allentown citizens to any kind of obligation. It just does not make sense, five years,

seven years, or maybe ten years. Thirty-five years, forgive him, but this is utterly unheard of in the public domain. Council is aware and makes decisions (Any Council) that they have to approve, sign contracts and so on. However, Mr. Guridy here has a heavy burden for having had to be on a Council which voted for a contract with one of our employer unions, the burden in which is bringing our city financially to its knees and now we want to take on a thirty-five year contract. It does not make sense to him as a citizen and a taxpayer. As has been mentioned the contract obliges the city to provide 75 tons of MSW plus 25 tons of sewage any which way you want to it is a hundred tons of waste. His understanding of the contract is the city is require to produce hundred tons of waste either municipal solid waste (garbage), or 25 tons of sewage any which combination. If the city can't produce this amount, Delta Thermo has the right to go out of the city anywhere, any state and bring in any kind of MSW or sewage slug without any control by the city government. We will become a city without bonds, city without control of their garbage and will become garbage city.

Mr. Guridy stated that he did not sign a contract with any public union or city union. City Council is not allowed to sign or negotiate with unions. What you said is actually has been misspoken.

Mr. McGuire stated that he stands corrected and as a citizen at the time he was not aware of an outcry of Council in this case. He withdrew his comments that were attributed to Mr. Guridy and apologized.

Mr. Al Wirth stated that he does not live in Allentown, he lives in Bethlehem and lives and works downwind of the proposed facility. He is the director of Environmental Studies at Lehigh University. He testified before about this issue regarding his role as chair of the Sierra Club and sent two letters opposing this. He stated that the money that they will be taking tonight is pennywise and pound foolish. With the \$3 million, you will be taking on many more millions of potential loses by the city. This money should be avoided at all costs. The two main reasons that he wants to remind them of that and call their attention to is the enormous risks that they are taking betting on all the markets, according to the city's projections. It is important to realize that the city's trash revenues that they would take in plus the revenues that they will take in energy will not exceed the cost of existing system by the city's own figures. The only way this facility will make enough money to operate and have an advantage over the existing system is if you import trash. That is the only way. The city's own numbers shows that the present value and cumulative value of the entire operation is going to cost the city more money than it would cost for the existing system by your own figures. He pointed it out in his letter, the net present value of the two streams of incomes. The only way of an economic advantage from the city is the city to import waste in addition to its own waste while serving its own waste needs. That is a very big risk and wrongheaded approach for a city to actually invite more waste into town to make enough money to pay for its own waste handling when it could continue with its existing system and new and improve systems that would cost much less and be much safer. The city will be gambling enormously on the electricity market. You did cover the last time he spoke to them the worst aspect of the electricity and put floor in on the price. Your numbers on the electricity would also cause the city to lose money on the entire contract if those projections don't come true. They have to go up two percent a year. If any of that two percent a year of electricity prices is offset by renewable energy and the expansion of wind power and all the efforts the state takes, you won't get any of the additional revenues and you will lose another million or so dollars or many millions depending on how much the price goes up than two percent. You are betting on waste risks and electricity risks and you are depending on importing waste to save money on this contract. He urged them to reject this little bit of money because it will cause a huge amount of money down the road.

Ms. Paulette Hunter asked about the document that was produced by the independent evaluator and if that could be posted on the city's website so families could look at it. She stated that she is very concerned what it indicated about people with disabilities because mercury is a thing that is connected to autism and other things and she is very concerned about that. She is also concerned about thirty-five years, it is a long

time. She does not have the background that these people have, but she is very fearful because several years ago we did something to pay police officers and fire fighters a long of money when they retired and to go into something for thirty-five years that might cause us to be in debt for other things, she is concerned about that. She knows that they can't change stuff, but she is concerned about the time period. She would like that document posted on the website so we the family and citizens can see what was done and who done what and have a true picture of what is going on.

Mr. Fran Dougherty stated that Council has its legal counsel here tonight and he would like to hear from Ms. Fruhwirth about the implications and the administration having a legally binding contract with Delta Thermo which you authorized the mayor to engage in and what the potential consequences are and Lauren Giguere can weigh in too if we do not pass this pass-through grant tonight.

Mr. Guridy asked Council is there any objections to listen to it.

Ms. Lauren Giguere stated that she was not involved with the negotiations of the contract, but understands and she will look to Ms. Fruhwirth or whoever was involved with the negotiation of the contract to correct her if she is wrong, but she believes that if they did not proceed with the appropriation of the funds for the grants they will be in breach of the contract because the language of the contract states that they must do everything possible to bring forth the grant process that were in process when the project began.

Ms. Fruhwirth stated that in addition to that Attorney Marc Feller who is especially engaged as an expert negotiator in the contract negotiation and she cannot be to the actual specifics of the contract, but as a general principle, you do have a binding contract and it says in the most general legal terms, it will be a breach with consequences.

Mr. Guridy asked any questions for the dais.

Mr. O'Connell stated that he thought that the attorney that was hired by the city's administration Mr. Feller from Philadelphia stated that at any given time the city can walk away from it and Delta Thermo could walk away from it. He thought that was said to them at the eleventh hour.

Mr. Schweyer stated if it was a breach of contract and Delta Thermo did not live up to their end.

Mr. O'Connell stated yeah, if the city does not live up to their end and they did not live up to their end, we could walk away, fair and square. If the city does not live up to our end and not accepting this money, is that walking away? He asked Ms. Fruhwirth to give him some legal advice. He thought he said that if they have an agreement that they would both walk away.

Ms. Fruhwirth stated that she cannot speak on what Attorney Feller recommended because she was not present. She deferred to him.

Mr. O'Connell stated that is fair.

Ms. Eichenwald stated that she is going to vote against accepting this money and thinks the city needs to cut its losses. It is enormous consequences that the city will undertake financially, especially environmentally. The Environmental Advisory Council was established including citizens of this community to be an independent thought process for what was environmentally correct for our citizens. There is no way that her conscious would allow her to vote for a process that is going to be put into the air of this community additional lead, mercury, nitrogen oxide, carbon monoxide, carbon dioxide, nitric oxide and especially dioxins, the most dangerous chemical of all. The Environmental Advisory Council has studied

this and has only the best interest of this community at heart and accepting this money is completely inappropriate for the best interest of the citizens of our community. I think we cut our losses and we do what is in the best interest of our children and grandchildren.

Mr. O'Connell stated that he echoes the sentiments of Ms. Eichenwald and he will be voting no on this bill also. He knows that Julie, Dan, Rich, and Jim have been here before, Dave he knows, Al has been here before, and Poresky have been here before, but what sticks out in his mind the new person in the room and that is Dawn. He has said that the pollutants scare him coming out of that stack and he has a granddaughter as many of them have children. Think down the road ten years, fifteen years, twenty years, twenty-five years, and thirty-five years. He will not be on Council in thirty-five years, may be ten years if you vote for me. Think about the risks we are putting our children, grandchildren, our ourselves with an unknown quantity coming out of those stacks and if you can lay your head on the pillow tonight and say, I don't believe those risks then do that, but he does believe those risks and he wants to ensure the safety, the health, the welfare of the future Allentownians, the children, the grandchildren and the great grandchildren. This is not environmentally sound and he reiterates that he will be voting no on this.

Mr. Guridy asked were there any other comments from the dais. He stated that a lot of the questions and comments that were made today in regards to the toxins were discussed before and they were dispelled. They were myths and he read that Mr. Poresky's letter in the paper today and it is the same thing that they went through before and it was dispelled.

#### **Ordinance passed, 5 – 2 (O'Connell, Eichenwald)**

Mr. Guridy thanked them and stated that the letter was submitted by Ms. Thomases and not Mr. Poresky.

#### **Bill 27 Local Massage Therapy Codes Replaced by State Code**

Repeals Ordinance No. 13360, Article 1157 of the Codified Ordinances, in its entirety to conform to the state massage Therapy Act of October 9, 2008, P.L., as Amended

Mr. Schweyer stated that apparently fifteen or twenty years ago, the city was forward thinking and began the process of registering and monitoring massage parlors in the city. However, since then the commonwealth of Pennsylvania had instituted stronger regulations about local massage parlors and this bill will allow us to mirror the commonwealth's rules and regulations and was recommended favorably by a vote of 3 – 0.

#### **Ordinance passed, 7 – 0**

#### **Bill 28 Public Works Reorganization**

Amending the 2012 General Fund and the 2012 Solid Waste Fund by reorganizing the Public Works Department by creating the position of Deputy Director of Operations (18N).

Mr. O'Connell stated that he would look for comments from Mr. Dougherty and Mr. Young explaining the reorganization of the public works department.

Mr. Dougherty stated that the public works director needs help. In the aftermath of the former Public Works Director Neil Kern, three senior level management positions were permanently eliminated from the hierarchy of public works and at that time for a short interim in his absence there was one deputy who quite did not work out, but he is here before Council to ask that we help Mr. Young in his duties to overseeing the largest in the operating departments in the city and with that he will hand it over to Rich with a broad justification from his point of view.

Mr. Rich Young stated that in addition to the department, he is also operating as the bureau manager for the department of engineering as Fran Dougherty has said previously there was a manager of engineering and the director as well as a water resource manager. If you were to approve this reorganization the oversight for building maintenance, streets, recycling and traffic would fall under the new deputy director. He believes that they are all aware that the City of Allentown has an EPA administrative order which requires a lot of reporting requirements at our waste water plant and it would free up his time to concentrate on helping get some of those reports submitting to DEP and EPA. He is asking for Council's help.

Mr. O'Connell stated that this Bill was moved favorably by a 3-0 vote to the entire Council.

Mr. Schweyer stated that he is going to be a yes vote. However, he would like to say that he is really glad to see the administration recognize that we need to do more for the city. He is tired of people saying that government needs to do less and he believes government should do more and is not going to apologize for it. It is really difficult for us to do more or do what we are doing. At last count, we had 36 vacancies that go unfulfilled and these are the boots on the ground. These are the men and women on the streets, and the men and women who keep our water and sewer department and we have 20 vacancies in our parks department and it is so that he applauds the administration looking at creative ways to continue to deliver service to the best of our ability. He has to shutter to think that we are with such low numbers of municipal workers. Everyone knows that his dad was a municipal worker and also was a laborer and never in management in the city in its hierarchy and retired as a meter reader with the city's water department. At some point and time Council and the administration has to take a hard look at the fact that major services and basic governmental functions are simply not being fulfilled because we don't want to hire people and there are jobs that this Council except the new members beside him voted for additional people that we authorized funding for and we authorized funding in our enterprise fund and not general fund dollars and these positions go unfilled. He implores the administration, the council does not have authority to sign off on that one guy in a room on the fifth floor, not Mike Hanlon that has the ability to sign off on this stuff. He does not have the ability, only the mayor does. He would like to continue to implore, beg, congeal or threaten, whatever we need to do to see if the administration will start hiring some of these folks who salaries have been budgeted for. On those lines, Mr. Dougherty you were not here for the question about going over the fire dollars and the fire department's budget. It is his understanding and Chief Scheirer spoke about this and he does not think Chief Scheirer is still here he had mentioned that once the settlement is reached with the IAFF local 302 he would hope that the administration will start hiring folks off of that list and once that is completed he ask the administration about hiring. He stated that Dr. McGuire was telling them that they are seeing more invasive species now more than they did a year ago and simply by adding a few man hours to our parks and recreation department we may be able to get a handle on it. He drove through the parks and the parkway yesterday with his two daughters and it is just not good. He stated that we have some of these resources we need to free them up or getting more working folks in our parks and in our streets and working our sewer water and start getting the job done. Thank you for doing this and he has no problem adding services to that direction.

Mr. Guridy stated he echoes Mr. Schweyer's position on this and they should hire positions that have been budgeted for and we have a lot of work to do in our parks and he would like to see them done and see people hired. He agrees that way back then when he was here and they had to lay off 39 people at that time and he would like to see some of those people hired. He asked if this message could get back to the mayor.

Ms. Eichenwald stated that all of that is certainly true that we need to hire more employees, but the issue under discussion right now is what to do with public works and she would like to speak in favor of this

proposal. She thinks when you hire a competent able director that he should be then be given the responsibility to run the department and make those decisions.

Mr. Guridy stated just in case he is not opposed to Bill 28 and he agrees with Ms. Eichenwald on that part. He wants to make that clear that in addition to this position he would like to see other positions that have been budgeted for or in the budget already. He asked were there any comments from the floor.

Brian Hunsicker, SEIU Local 32, encouraged Council not to vote on it tonight. The 30 or 40 positions when he spoke to the mayor six months ago his first phrase was we have to learn to do more with less. It seems to him that they continue to do more with less and we drive by Tenth Street cemetery and he encouraged them to do that tonight and the grass is about knee high because we don't have parks workers to cut it. We are so thin and he can go on and on because every bureau has its weaknesses where we are lacking and he thinks organized labor continues to take a hit when it comes to reorganizing city government and will continue to take a hit until this body up here starts to recognize what is needed and where it is needed. When you make decisions that directly affect the public in the ways you guys do you have to think about what you are doing I encourage you to make the right decision and not vote for this. We have not been able to get any jobs posted or signed by the mayor. We had employees who have been waiting over a year on lateral moves at different bureaus that don't cost the city money. The question is with those thirty to forty jobs where the money is. You guys should be asking that question from these jobs that are not being filled. Where are you saving the money and where is it going? It is spending somewhere. He works closely with Fran with a lot of issues and told him upfront that he was definitely against this.

Mr. Greg Hoffman, Assistant Chapter Leader and will go over the same facts as Mr. Hunsicker did. He received phone calls from his union people and the guy has a bid in for a year. He went from waste water to parks which was a lateral move and what's holding it up he has no idea. He gets a call from him every week and discussed it at labor management when these jobs are getting posted and they look at us like talk to the guy upstairs. He stated that he respects Craig and works with him and think he will do a great job, but we are here to represent our people too. They are saying we are allocating this money, but there are people being bumped up here. Is that person's job going to be filled? Why aren't they filling some of our jobs? These jobs can recommend if Fran and Craig gets in and Rich, but the jobs are not being filled and as a taxpayer you guys approved a budget and put an amendment through for two parks positions and they did not fill them yet. The two jobs from a year ago, they did not fill them yet. He has a job that was laid off who was promised a job a year ago and you have the job, let the mayor sign it.

Ms. Eichenwald stated that there are very valid points, but we still have the other discussion that we have to vote on as far as the reorganization for public works. Perhaps the best way to proceed is that we set aside a time to have this discussion about increasing the workforce. It is in the workforce, it should be occupied and we should fill these positions. She is not sure if it should be filled under CEDC or at some point have a discussion as to filling these positions or Mr. Dougherty tackle it under your manager's report, but these are certainly important issues. She does not think the importance of this particular issue negates in any way the request from Mr. Young.

Mr. Schweyer stated that he and Mr. Davis had a quick conversation.

Mr. Davis stated that as chair of the Human Resources Committee he will gladly hold a hearing on this. They brought up very valid points even though it's a separate issue we are voting on tonight. He stated that he still wants to talk to her and if they could talk after the meeting.

Ms. Eichenwald stated that she agrees with him that it should be in Human Resources.

Mr. Guridy stated that the final discussion is that you will meet under Human Resources just to find out what is going on with them not hiring people appropriate in the budget.

**Ordinance passed, 7 – 0**

**Bill 30 Obesity Prevention Award**

Amending the 2012 General Fund Budget to provide for a supplemental appropriation of Thirty Six Thousand (\$36,000) Dollars from the U.S. Conference of Mayor's Childhood Obesity Prevention Award to the Health Bureau's Nutrition and Physical Activity Program budget. The funding will be utilized to expand and enhance the "Fruits & Veggies On the Move" initiative as a means of increasing availability and access to fresh fruits and vegetables to youth and families participating in the City's Playground Program and other selected community events by means of a City pick-up truck decorated with large fruits and vegetable magnets/decals. The funding will also be used for other childhood obesity related outreach events or projects that promote good nutrition and physical activity.

Mr. Schwyer stated that it was recommended favorably 3 – 0. This is a pass-through grant from the Conference of Mayors for Childhood Obesity Program for Fruits & veggies On the Move. He does not know if it was last year, but they had one of the coolest committee hearings that he got to eat his first star fruit courtesy of our bureau of health and by the way it was pretty good for our mobile fruits and vegetables to make sure that our inner city youth are exposed to more fruits and vegetables, and it was recommended favorably 3 – 0.

Ms. Vicky Kistler stated that this is an award they received from submitting our little video that Parks and Recreation helped put together. The reason the money is lower in the amount that she anticipated is because rather than spending it all in one year we are spending half of it in 2012 and half of it in 2013. That is an awful lot of fruits and vegetables and we have only so many people dressed as characters to hand them out and that is why the amount is lower because it is over two years. It is also funding and she needs to thank Craig and the rest of the staff. He is working with revamping the truck for them so that they can protect the fruits and vegetables from the birds and everyone else that visit us and it will be a really cool program and you can invite of to any events that you support to bring those fruits and vegetables on the move.

Mr. Guridy asked if Ms. Kistler has any more of those star fruits left.

Ms. Kistler stated that she will check, but is working on some things that you have never seen before. You will be surprised.

Mr. Schlossberg stated like the star fruit.

**Ordinance passed, 7 – 0**

**BILL 31 Berkheimer Delinquent Fees**

Amending Article 394.06 - Fees Associated with Berkheimer for the Collection of Delinquent LST and Per Capita Taxes of ACT511.

Mr. Schlossberg stated that this was recommended favorably by budget and finance by a vote of 3-0. This is a standard contract with Berkheimer to have them collect our LST and Per Capita and he will also note that Mr. Strathearn and the finance department promised to give us a breakdown of how these fees are collected and what enforcement measures take place in order to make sure that we are actually getting all the money that we should be including every resident of the city regardless if they own property gives \$5

and at the time, they did not have answers on how this money is collected. What the net is a few other things that we were promised to get at the next Budget and Finance Committee meeting and we have established by precedence if we don't get the information we want we will just keep asking until we scream extremely loud and have an emergency here.

Mr. Schweyer stated to Mr. Schlossberg that two weeks ago they did one or two resolutions about Berkheimer collecting property taxes.

Mr. Schlossberg stated that they are not property taxes they are actually Portnoff apparently collects our property taxes. This might have been the EIT.

Mr. Schweyer stated as a point of information and it is not a big deal. We did those by resolution, why is this a bill.

Mr. Schlossberg asked Ms. Fruhwirth if she has an idea of why this format is different. He asked Michael Hanlon if he could find out.

Mr. Michael Hanlon stated that the last time you were passing a resolution that appointed Ms. Bowman as the collection authority of information and this time you are establishing fees that define.

Mr. Schlossberg stated that fees are what define it. He stated that Mr. Hanlon is right.

Mr. Schweyer stated that he appreciates that clarification.

Mr. Gurdy asked were there any comments from the dais or the public.

**Ordinance passed, 7 – 0**

#### **11. ORDINANCES FOR INTRODUCTION:**

##### **Bill 32 Strike Team Preparedness**

**Referred to Public Safety**

Amending the 2012 General Fund Budget to provide for a supplemental appropriation of Two Thousand Five Hundred Dollars (\$2,500) from the Eastern PA EMS Council to the EMS Budget for Uniforms and Premium Pay.

##### **Bill 33 Seventh from Hamilton to Turner Additional Funding New Street Lights**

**Referred to PW**

Amending the 2012 Capital Fund Budget to provide for a supplemental appropriation of Fifty Five Thousand Dollars and Zero Cents (\$55,000.00) reflecting receipt from a Transportation Enhancement Grant from the Pennsylvania Department of Transportation (PennDOT) to install new street lights along North Seventh Street from the Hamilton Street to Turner Street. The Bureau of Traffic Planning and Control is supervising and monitoring the grant.

##### **Bill 34 Noise Ordinance**

**Referred to Public Safety**

Amending the Noise Control Ordinance by establishing a \$100 SWEEP ticket fine for noise disturbance violations such as loud music from vehicles and residences, loud mufflers, illegal use of fireworks, and other violations specified under this Article. It also removes the progressive fine language that made first offenses only \$25 on up.

##### **Bill 35 Neighborhood Improvement**

**Referred to Public Works**

Amending Article 720, Neighborhood Improvement Ordinance, by addressing vehicles parked on grass, skateboarding and bicycling in the center city area, illegal dumping, graffiti, property maintenance, handbills and shopping carts through the issuance of Sweep Tickets.

**Bill 36 Street and Sidewalk Regulations**

**Referred to Public Works**

Amending Article 741, Street and Sidewalk Regulations, by prohibiting the placing or depositing of snow or ice removed in the right-of-way of any street.

**12. CONSENT AGENDA:**

**CA-1 Certificates of Appropriateness of Work in the Historic Districts**

Mr. Guridy asked were there any comments from the dais or the public.

**Resolution passed, 7 – 0**

**14. RESOLUTIONS ON FIRST READING:**

**R 32 Aquatics Plan Review**

Acknowledges Aquatics Study has been performed

Mr. Guridy stated that Council discussed it before and it is ready for a vote.

Ms. Eichenwald stated that she wants to make sure that the only thing they are voting upon here is that they acknowledge receipt of the plan.

Mr. Guridy stated that is correct.

Mr. Schlossberg stated that this resolution in which he co-signed is written with minimalist language to acknowledge that Council still maintains control of the final or any future improvement and that we are accepting receipt of the plan. It says nothing about endorsing or not endorsing.

Ms. Eichenwald asked if they could hear the actual language.

Mr. Hanlon stated that he can read it aloud.

Mr. Guridy asked Mr. Hanlon to read it so that everyone could hear it.

Mr. Hanlon read:

**WHEREAS**, the City of Allentown and Williams Aquatics have prepared the City of Allentown's Swimming Towards the Future Comprehensive Aquatics Feasibility Study; and

**WHEREAS**, the purpose of the study was to understand, define, archive, and articulate the conditions, historical purposes, utilization rates, and provide other pertinent information concerning the City's current aquatic recreation facilities to act as a guide for informed decision-making; and

**WHEREAS**, the study recommends options on future aquatic facility designs, ensures compliance with applicable laws and regulations, provides recommendations for long term care and

maintenance of existing facilities, and develops an operational and business plan for aquatics within the City; and

**WHEREAS**, the Plan was financed in part by a Community Conservation Partnerships Program grant under the administration of the Pennsylvania Department of Conservation and Natural Resources, Bureau of Recreation and Conservation, under contract number BRC-TAG-13-175; and

**WHEREAS**, it is the ultimate goal of Council to provide access to swimming pools for residents in close proximity of their neighborhoods; and

**WHEREAS**, Council hereby commits to having a minimum of three public hearings to discuss any plan relating to closing or relocating any aquatic facilities prior to any action; and

**WHEREAS**, Council retains its authority to have final word on permanent closures and relocation of pools, spray parks, and in fact all municipal assets through the capital and general fund budgets; and

**WHEREAS**, Council recognizes that our City is unique in that it is a city of neighborhoods and each neighborhood should have equal access to neighborhood aquatic facilities.

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Allentown, hereby acknowledges that the study is complete.

Mr. Gurdy stated that was in the Parks and Recreation Committee and it was discussed and at this point in time it is very clear. He asked was there any comments from the public.

Mr. Dennis Pearson, East Allentown, stated this is moving on to the state which will decide what money would be presented back to the city. They will look at the plan and say ok with the plan, but he favors them tweaking the plan. Keck Park is not included in the plan and Keck Park should have a water spray park there. Roosevelt is not mentioned in the plan and that should have a water spray park there as well. Irving Street, they want to take away the pool. He would say keep the pool if you don't have access to Dieruff High School and those are the tweaks he would make and for the future and other endeavors what Allentown lacks is when it lost the greenhouses is and this is getting off a little bit, he just want to mention this too that somehow we should restore the botany element of the greenhouse and whether it is with a private entity or a combination of other entities. Let's bring back the exotic trees and some sort of building so that the people can be educated. Given the makeup of what the diversity of the city is becoming somewhere in the city we should reestablish botany for tropical plants, botany for other areas as well. It would be a good thing for Allentown and the region because it is not here at the present.

Mr. Gurdy thanked Mr. Pearson and stated as you heard, we have committed to have at least three meetings in the community in this resolution and they will be discussing a lot of those issues that you presented. He asked were there any further questions or comments from the public.

Mr. Schweyer stated that he would like to thank his colleagues. This was a resolution that he thinks that they are similar concerns about the pool plan. We certainly listened to residents of the city and he would like to thank his colleagues for working together to try to put something together to reflect some of our concerns and he thinks that he is very happy with the final product is with this resolution.

Mr. Gurdy stated to Mr. Schweyer that Council is in agreement with you.

**Resolution passed, 7 – 0**

**R 33 Cosmopolitan Project**

Authorizes Submission of an RACP Grant for the construction of Cosmopolitan restaurant facility at 22 North 6<sup>th</sup> Street

Mr. Schlossberg stated that this was recommended favorably by the finance committee by a vote a 3 – 0. This is the standard RACP pass-through.

Mr. Guridy asked were there any further comments from the dais.

Mr. Schweyer stated once again, thank you Lauren Giguere for all you do. You are moving things along and kicking down the doors of the Governor's office to make sure we are getting these dollars.

**Resolution passed, 7 - 0**

**15. NEW BUSINESS**

None

**16. GOOD AND WELFARE**

Mr. Schweyer stated that he had the good future to attend today's Allentown Police Department Annual Awards Ceremony at the Scottish Rites and the mayor was there. He stated that once again, excellent service and it is just tremendous about the good work that our police department does and he is sure he speaks on behalf of all members of Council. He stated that Council's gratitude to the officers that received awards and the officers who get up every day and come to work in the city.

Mr. Guridy thanked Mr. Schweyer for representing City Council there. Some of them could not make it. He really wanted to go, but he is glad Mr. Schweyer went and he shares his sentiments.

Mr. John Ingram stated that it gives him great pleasure to not have to talk about the arena development, the NIZ or City Council right now. In regards to ordinances for introduction, Mr. Guridy did not ask for public comments or any of them.

Mr. O'Connell stated not for introduction only for final passage. It is just being introduced.

Mr. Ingram stated that he read the entire Bill that has been proposed and he has some concerns of certain aspects of Bill 34, the proposed noise ordinance.

Mr. O'Connell stated that Mr. Ingram can have the chance, the evening of the introduction of the Bill when they have their committee meeting. They are posted and the noise ordinance will obviously be Ms. Eichenwald's committee on the first Wednesday of month and that's when we will discuss the Bill and ask for public input at that time.

Mr. Ingram stated that he read the entire thing today, and felt that there were certain aspects of it to be clearer and fairer, especially in regards to music, TV and programming. He offered to help in regards to the final formulation of the Bill.

Mr. Schlossberg stated to Mr. Ingram that it will be addressed the first Wednesday of the month.

Ms. Eichenwald stated that first Wednesday of the month.

Mr. Guridy stated that he did not ask for comments because we don't ask for comments when it is for introduction. This is for everybody to know when it is presented for introduction; it actually goes to a committee and is assigned to a committee. That was assigned to the public safety committee on the first Wednesday of the month and Mr. Ingram is welcomed to come to the meeting and talk to Ms. Eichenwald in the meantime.

Mr. Ingram asked what time it will be on that Wednesday.

Ms. Eichenwald stated 6:00 PM.

**17. ADJOURNED 8:35 PM**



**—NOTICE OF ENVIRONMENTAL ADVISORY STATEMENT—**  
**Environmental Advisory Council**  
**City of Allentown**

On March 29, 2012 Allentown signed a 35-year contract with a private NJ company, Delta Thermo Energy (DTE), to build an incinerator on Kline's Island in Allentown for disposal of the city's trash and sewage sludge. The incinerator will be generating electricity from the heat generated in the combustor.

The EAC was briefed on the DTE process multiple times starting in 2010 by DTE's company principals, Mayor Pawlowski, and advisors on the project. The EAC has done its own research which included consultations with people knowledgeable in related fields. Allentown has no control over any aspect of the operation of the facility, including monitoring, maintenance, or problems that may arise if this untried technology fails. The contract requires the city to pay DTE millions of dollars per year for 35 years to process and dispose of the city's trash and sewage sludge.

**It is the opinion of the EAC that this contract puts Allentown at unnecessary risk for financial losses and environmental damage to the city's air, water, and quality of life while discouraging the adoption of less expensive and environmentally healthier options for its waste.**

1) An argument made for the incinerator is that the cost to landfill the city's trash and sewage sludge will rise dramatically in a few years due to dwindling availability of landfill space. In fact, the Lehigh Valley has three huge landfills, Chrin, IESI, and Grand Central. According to information from the DEP, at least one of the landfills has capacity for current levels of waste production for three decades. Two local landfills have announced plans for expansion. There are also opportunities to develop additional landfills.

2) DTE claims the electricity produced in this facility will be clean energy. In fact, trash incineration produces more pollution than any other sort of electricity generation, and is much worse than coal for releases of mercury, lead, nitrogen oxides, sulfur dioxide, carbon monoxide and carbon dioxide. Trash incineration is also one of the largest sources of dioxin pollution – among the most toxic man-made chemicals. Many toxic materials found in trash cannot be destroyed. They could go up and out smokestack, be in water discharged into local waterways or be in the ash going to our landfills. Concentrated toxic ash is more dangerous in landfills than if the unburned waste was landfilled directly.

3) The backers of the incinerator claim it will not pollute because it has to comply with the PA Department of Environmental Protection (DEP) regulations. In reality, the DEP regulates and requires monitoring of only a small number of pollutants and for those, the limits are not based on health or safety but on what is practical for various industries to meet. Once an incinerator is operating, DEP rarely shuts it down when it violates regulations. Although DEP may impose fines, owners often put off fixing the problems and sometimes consider paying the fines as a cost of doing business.

4) The contract creates a disincentive to reduce waste. The incinerator needs a minimum volume of waste to work efficiently, about the same as the current amount of waste produced by the city. Should the city produce less waste through increased recycling and composting it will still be charged full price. This potential financial burden will be borne by Allentown taxpayers for decades and makes it all the more difficult to find better solution. The preferred way to reduce the amount of trash going to landfills is to lessen the amount of trash created by the city residents. Much of what is sent to landfills can be eliminated, recycled, or reused. Easily recyclable materials include nearly all metal, glass, paper and plastic, electronic gear and appliances. Most food and plant material can be composted and returned to the soil. Clothes, furniture and toys can be sold or donated. As has been shown in other cities, educating the public and enforcing and incentivizing trash reducing practices would reduce the amount of trash necessary to operate the incinerator. The number of truckloads of trash going to landfills from Allentown could be cut more than 50%.

While this statement deals primarily with the environmental aspects of the project, we feel obliged to state we believe the arrangement between Allentown and DTE will be financially far more costly than continuing the present system.

In conclusion, the EAC sees no justification for Allentown to engage in a long term contract that binds it to a system of waste disposal that is potentially both environmentally and financially detrimental to the city and over which it has no control.

Julie Thomases, Chair  
Allentown Environmental Advisory Council  
Submitted May 13, 2012