

**Michael D'Amore, Ph.D., President**  
**Peter Schwyer, Vice President**  
W. Michael Donovan  
Jeanette Eichenwald  
Julio A. Guridy  
Ray O'Connell  
Mike Schlossberg



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**COUNCIL MEETING MINUTES- 7:30 PM**  
**COUNCIL CHAMBERS**  
**January 19, 2011**

Mr. D'Amore recognized Allentown Central Catholic Football Team as the PIAA AAA State Champions. He stated that they wanted to wait for the parents because none of this could be done without the support of the parents and the coaching staff. He thanked Mr. Schwyer who is an alumnus of Central Catholic for escorting the team in. He stated that the Council has a Proclamation and Mr. Donovan will begin to start reading and will pass it down the line and present it to the coach.

**1. Invocation: Jeanette Eichenwald**

**2. Pledge to the Flag**

**3. Roll Call**

D'Amore, Donovan, Eichenwald, Guridy, O'Connell, Schlossberg, Schwyer were present.

Fran Fruhwirth represented for the Solicitor's Office.

**4. Courtesy of the Floor**

Mr. Dan Mest long time resident of Allentown discussed Bill 100 regarding the Shade Tree Ordinance. A property owner should have a right to say yah or nay on a tree in front of their house.

Mr. D'Amore stated that he agrees with Mr. Mest and stated that at least it should be a discussion on this matter.

Mr. O'Connell stated to Mr. Mest that they had this discussion several times and with the Bill there is an appeal process.

Mr. Mest asked if the amendment goes in does the property owner have a twenty day window instead of a ten day.

Mr. Schwyer stated that he does not have a problem extending the timeframe from ten to twenty days. This is no different than other exterior improvements and they have talked about it. The Shade Tree Commission is opened to the public at 9:00 AM. He has no problem looking at the timeframe. Mr. asked Mr. Hanlon to reach out to Mr. Brown from the Shade Tree Commission and Mr. Weitzel and have that conversation.

Mr. Lou Hershman asked about the PMRS Pension fund excess interest issues.

**5. Approval of Minutes: December 1, 2010 and January 5, 2011**

Minutes approved by Common Consent.

## **6. Old Business**

Mr. Donovan stated that he has two questions. Have they received the comment from the Law office regarding COPS? He stated that he received a very distressing email this week that he would like to discuss.

Mr. D'Amore stated that they have not.

Mr. Donovan stated that he hopes that they will get it soon. He is not in favor of that and feels that it is very distressing email this week. He is hoping that the law department can get back to them. He stated that he opened his email and it was a copy of a letter to the Mayor from the Redevelopment Authority of the City of Allentown that is extremely adamant about their belief of what the Mayor is doing in changing the Redevelopment is wrong and potentially illegal. It is a strong letter.

Mr. Bennington stated that he just sent Ms. Hailstone home, but thought that she could address it.

## **7. Communications**

Mr. Donovan stated that he just received the letter and stated that he is not sure if his colleagues received it, but the Redevelopment Authority goes through a long litany of reasons why the administration is doing is not appropriate for the City of Allentown.

Mr. Schweyer stated that he has a meeting with Chairman of the Board of the Redevelopment Authority tomorrow at 3:30 PM.

Mr. Donovan stated that he guess that they will go along four to six weeks into the year with these changes. He asked has the contract been signed.

Mr. Bennington stated that it was provided and he could not answer if it was signed.

Mr. D'Amore stated no.

Mr. Donovan stated that he has not been involved with this and understands that the ARA requires and disposes property very specific and there is also known that the ARAC was doing a very good job with issues of housing and policy within the city and was not part of the contract with the city. The way that the letter reads there is great of disposal of property and Council needs an explanation of why they are not happy with the arrangement.

Mr. Bennington stated that he does not have a copy of the letter.

Mr. D'Amore asked if there were anyone else for communications and stated that they will move on. There is a Committee of the Whole meeting on February 16<sup>th</sup> at 6:30 PM and their guest will be Superintendent Zahorchak and he will discuss School District plans for the future and numerous plans how the city government and school district can work together.

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

Budget and Finance: Chairperson Donovan

Mr. Donovan stated that the committee has not met since last Council meeting. They have a meeting scheduled for January 26<sup>th</sup> at 6:30 PM. They will talk about a variety of issues the pension impact of the

disability changes that are being proposed by the administration, the PMRS interest rate that was brought up by Mr. Hershman, Risk Management funding issues and the Budget process going into 2012 and the 2010 Preliminary Financials that they received last Friday. The city succeeded in having a very small deficit on a cash basis according to preliminary results. He hears \$79,000 which is pretty close. At the same time while there was significant control over expenditures and he complimented the administration on that they still run into the situation that they would have been \$3 million deficit if it was not for one-time money. One is the EIT escrow fund and the other is the sale of the cell phone tower at the Golf Course. One item that is a major concern and still a major concern is the premium pay in the police and fire department. He stated that in a lot of companies there is a full-time versus over-time issue. How long do you use over-time before you hire full-time. There is about \$3 ½ million in premium pay between the police and fire department combined and they were told that the police force junior officers would cost the city \$120,000 - \$125,000 all inclusive training, benefits, etc. He does not know how much a junior firefighter would cost, but that is 35 people if you divide \$120,000 into \$3 ½ million. He stated that he was curious of when they budget out a small premium pay category and hire some more people. He realizes that there are scheduling issues.

Mr. Bennington stated that the Fire department has a minimum staffing requirement in their current contract.

Mr. Donovan stated that minimum is minimum and he would not mind hiring a few more people which could reduce the over-time. He appreciates the administration for bringing them close to even and he knows that they have a long way to go in terms of stability.

Public Safety: Chairperson Guridy

Mr. Guridy stated that they have not had a meeting since the last council meeting. The next meeting is February 2<sup>nd</sup> pending any agenda items and they can look at if they could hire more firefighters.

Mr. Bennington stated that it should be in Budget and Finance.

Mr. Guridy stated that is something they can talk about in the Public Safety Committee meeting as well.

Community and Economic Development: Chairperson Schweyer

Mr. Schweyer stated that they met this evening. They had an official tour of the soon to be opened Veterans Sanctuary which was a \$2.5 million project that will create 25 jobs in Center City Allentown. It will open up on the unit block of South 5<sup>th</sup> Street. Two years ago they added language to the Zoning Ordinance and this project was impacted by that. They had a tour and it is a very impressive facility and it is an example of adaptive re-use of a building that is pushing one hundred years old. He stated that followed by a meeting in Council Chambers by one piece of legislation which was a HARB denial. They also discussed and recommended to resolutions that he is going to ask for them to be voted on at first reading. They had a conversation with the CDBG staff about the policies and procedures for the CDBG process. A future meeting has not been scheduled.

Parks and Recreation: Chairperson Ray O'Connell

Mr. O'Connell stated that they had a meeting this evening. They had a discussion on the Dog Park update. They discussed the restoration of Trout Creek Park and the Relationship between the Environmental Advisory Council and Parks and Recreation Department Projects. The next meeting is scheduled for February 16<sup>th</sup> and a Committee of the Whole meeting that night with Ms. Zahorchak and will adjust accordingly.

Public Works: Chairperson Schlossberg

Mr. Schlossberg stated that they have no meetings and no reports. They had no agenda items.

Human Resources, Administration and Appointments: Chairperson Eichenwald

Ms. Eichenwald stated that a meeting has been scheduled for February 2<sup>nd</sup> for 6:30 PM which they will review outsourcing and approving labor contracts. She stated that she would like to add on tonight's agenda there is an ordinance for domestic partnerships benefits. When the ordinance left the committee meeting, it was approved by 3 – 0. At that time they were graced by a Solicitor and had the opportunity to have a discussion and she observed in the last half an hour a lot of movement and people going in the back room and people running around. She stated that she would just like to say official when that ordinance left the committee it was approved 3 – 0. As a committee chair she was not been prior to this evening been made aware of some of the events that are about to occur.

Rules, Chambers, Intergovernmental Relations and Strategy: Chairperson D'Amore  
Mr. D'Amore stated that there were no meeting and no report.

### **OTHER COMMITTEE REPORTS**

Mr. Schlossberg stated that the Adhoc IT Committee had no meeting this month due to the snow and the Urban Observatory has met and is trying to come up with a consensus with the administration on a citizen satisfaction survey that they are looking to get out in the next couple of month as an additional project.

Mr. Guridy stated that the Allentown Housing Authority had a meeting in December and the minutes were forwarded to Council the meeting minutes for November and December and they should have received them and there is a meeting with the Allentown Housing Authority tomorrow at 9:00 AM at the headquarters of the Allentown Housing Authority.

Mr. D'Amore stated that this January marks the end of his time on the Lehigh Valley Planning Commission. He has been on the Lehigh Valley Planning Commission for five years and he did enjoy it. It became very difficult for him this year to attend meetings and after discussing with the County Executive who makes these appointments, Mr. O'Connell has graciously agreed to represent City Council.

Mr. O'Connell stated that he filled out all the paperwork and he will get an invitation for the next meeting.

### **CONTROLLER'S REPORT**

Mr. Hoffman stated that he had no report.

### **9. APPOINTMENTS:**

#### **Health Board Appointment, Eid Sherrine, term would extend to 1/1/2016**

Ms. Eichenwald stated that they have one appointment. The other appointment has been postponed for the next meeting so that Mr. Joyner will be able to join them. She stated that this evening gives her great pleasure and it is a privilege to appoint Ms. Sherrine Eid and by her professional work and her academic background will be a gift that they are giving to the Health Bureau. She would like to read her remarks when asked why she was interested in this position. Ms. Sherrine Eid stated that I am interested in serving on the Allentown City Board of Health as an experienced Epidemiologist and Biostatistician with civil and Foreign Service experience in public health and health development. She has served our nation as an analyst on USAID and CDC – funded projects in resource poor and underserved communities. Furthermore, she has served as the District Epidemiologist of the City of Alexandria and State of Virginia Health Department. While in this role, she was responsible for training the EPI Response Team on Class A biologics and outbreak investigations and management. She also trained law enforcement and other first responders on forensic epidemiology. Moreover, she was responsible for completing the Alexandria Community health Assessment as well as contributing to the District of Alexandria Emergency Preparedness and Response plan as a Phase I state Health Research Section of the Department of Community Health and Health Studies at Lehigh Valley Health Network. She has worked on the Allentown Community Health Survey spearheaded by Lehigh Valley Health Network in collaboration with the Allentown Bureau of Health, as well as, other key stakeholders, such as, the Weed and Seed project and the Youth Success Zone. Our collaborations in the past have yielded 'best

practices' at the state and national levels. Her intention is to further and enhance these collaborations to bring about a healthier City of Allentown. Ms. Eichenwald stated that they can see by Ms. Eid's words and academic professional background that she will be an asset to the Health Bureau and thereby to the City of Allentown.

Mr. D'Amore asked Ms. Eid if she would like to make a statement.

Ms. Eid thanked the City Council.

Resolution passed, 7 - 0

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

### **Bill102Domestic Partnership Benefit**

Amending the Personnel Code by providing the same health and other employment benefits to employees and retirees with same sex domestic partners as it provides to employees and retirees with spouses.

Ms. Eichenwald stated that as she stated before in the presence of Council and with the three (3) committee members that this was forwarded to City Council.

Mr. D'Amore stated that there are several proposed amendments by several sponsors.

Mr. Donovan stated he would like to further Ms. Eichenwald's comments. He knows that she is privy to a variety of emails discussing this topic and he wants the public to know there are a lot of legal questions. The most important one has to do with pensions and the state law trumps city laws when it comes to pensions. He stated that as he understands it, the City of Allentown will be the first city in the state of Pennsylvania that would attempt to do this. There are also questions to do with Collective Bargaining agreements and he has looked around several cities and there is always an issue, but that is why these amendments are being discussed. Most have to do with making sure they are dotting the I's and crossing the T's so that they do not come back two or three months later with a legal challenge that would disrupt for the party they are trying to do this for and two becomes costly to the city. He stated that the Health care issues and the collective bargaining agreements that benefits are already negotiated with the various unions. He asked the question as a neophyte of Labor negotiations of why the heck would any one then decides on whom to get them. If they city provides benefits, then no particular labor group in his opinion has the right to say that anyone of the group should not get them. He stated that he has known since the age six that he has a gay uncle that has a partner that he is still with. He stated that when they start adding amendments things start to get messy. He recommended to council that they get this pulled until they get this right. He stated that he is not talking about months. He is very upset that they do not have an MOU with the two unions in question. He does not understand why. Two weeks ago this is what they were discussing. He does not understand the delay because they have already discussed negotiating benefits with these unions. To him, they should not even be involved.

Mr. D'Amore stated that they have signed and completed a memorandum of understanding between the City of Allentown and MESA which is a meet and discuss unit. It is not an official Collective Bargaining Agreement. For lack of a better term, it is white collar employees. They have a signed agreement accepting these benefits from the Service Employee International Union SEIU Local 32 BJ and they represent the blue collar workers of the city and they are a Collective Bargaining Unit of the city. These two work units along with the few handful of employees that are covered by no representative unit. Those employees make up a significant majority of the employees for the City of Allentown. The City Council has yet to receive a signed agreement from the FOP or the IAFF. He stated that he received a phone call from president, John Stribula from IAFF tonight and he assured him that the IAFF has every intention to accept the benefits. He was just performing his fiduciary

responsibility to his bargaining unit and having the agreement vetted by the attorney of the IAFF. Unfortunately, that took more time than they were anticipating and they were not able to execute the decision with the city by today. He asked Mr. Bennington if he wanted to add information.

Mr. Bennington stated that it is also similar to the FOP. It is not because the administration did not do due diligence. He stated that Mr. Donovan implied that. He stated that you have two party negotiations where both parties agree.

Mr. Donovan stated that he is blaming the unions. He stated that he does not think they have a right to decide who within their group gets benefits or not, if the city is going to offer benefits. We have already negotiated.

Mr. D'Amore stated that is what collecting bargaining is all about. He stated to Mr. Donovan that his opinion is clear and appreciates Mr. Bennington's words. He wants to make sure that everyone is operating from the same information.

Ms. Eichenwald stated to Mr. Bennington that she fully understands that they are waiting for the responses for the two unions and they have to do our due diligence. She stated what concerned her is when they had their committee meeting they did have the solicitor here and some of the issues that she sees on a piece of paper written before her were not brought up and that is the puzzlement. It seems like when they go two steps forward they are confronted with another legality and she is not saying that they legality is not important, but why were we not told all the legalities at the time when the committee met. We are concerned about the process of the bargaining units, and yet our own process seems to be faulty. We want to do this and have a committee meeting every one is present, we reach an agreement, we vote on it 3 – 0 and she comes in this evening and it is all kinds of lines and underlines and other amendments and that is what she is concerned about.

Ms. Fruhwirth stated that she apologizes to the members of City Council and the audience. She stated to Ms. Eichenwald that she is going to try to address her concerns. At the committee meeting there were two specific legal questions and one of policy verification of the domestic partnership relationship. The first was in regards to the memorandum of understanding that had to be reached with the respective unions and the second was the need for the Act 205 study. Those concerns were addressed at the committee meeting. In the meantime there has been correspondence between the solicitor's office and the public employee retirement commission which has unearthed another concern and she agrees that this is an additional one in addition to the concerns that were addressed at your committee meeting. That has to do with the fire department and the police department with regards to being consistent with the third class city code in offering benefits to those members. She stated that she can acknowledge to City Council that this has since surfaced after your committee meeting and regret that development in terms of investigated further and at the interim in the two weeks between the last committee meeting and today.

Ms. Eichenwald stated that her distress is that she was not notified as the Chair of the Human Resources Committee. Had she been made aware of this in a timely fashion, it would have then given her opportunity if she so chose to call another meeting and they could have resolved this issue. She stated that her concern has to be post this we could have resolved these issues and how many more legal issues are there out there before they can do what is right and what is fair and what is their desire to do.

Ms. Fruhwirth stated that she would like to represent to them that there will be no more surprises or any other legal problems put in the path of this legislation.

Ms. Eichenwald stated that she would like to be assured that it would not be a continuation of one legal hurdle after another and if there is one legal issue that as Chair of the committee she will be informed.

Ms. Fruhwirth stated yes, certainly.

Mr. Bennington stated to Ms. Eichenwald that at a previous meeting he and Mr. Manley stated that an affidavit was required and she could check the minutes by SEIU and Capital Blue Cross.

Ms. Eichenwald stated that she is not discussing that. She understands that and there has to be a process that goes forward.

Mr. Guridy stated that he is not a member of the Human Resources Committee. He attended partial meeting and since the last committee meeting, he has received numerous emails addressing this issue and some of this amendments that are going to be presented tonight. He stated that most of them agree to this bill and a number of people that made several visits and owe it to them to try to pass this bill tonight and deal with the union MOU at a later time.

Mr. O'Connell said that the actuarial study stated that \$160,000 and that was a faulty actuarial study. Do we have the new actuarial study in process and do we have numbers?

Mr. D'Amore stated that is correct. He stated that he and Mr. Hanlon have been in contact with the actuary and the last step was they claim that they were not aware that is was for same-sex.

Mr. O'Connell stated that when he saw \$160,000 he immediately stated no way no how. Do we have a number?

Mr. D'Amore stated that he was disappointed to hear from actuary that the seemingly picked the number out of thin air of what they thought. The number of people that applies for the benefit will be without putting any ground to it. He sent a suggestion today and he does not know if anyone from the actuary has taken this up. He stated that perhaps they can contact a large employee that recognizes same sex partnerships such as the state of New Jersey. May be we can find out what percentage of their employees has recognized same-sex relationships and use that number to extrapolate. He has not gotten a response as of today.

Mr. O'Connell stated that he concurs with Ms. Eichenwald. He is not on the committee, but sat in the audience and new some questions that had to be answered and he came here tonight thinking that they were going to vote on this. He is disappointed that he has not reached an MOU with the fire and the police department. It is due diligence that they move this as quickly as they can to do the right thing and a fair thing for the employees of City of Allentown.

Mr. Bennington stated that the onus is on the police and fire. He can not make them sign the MOU's.

Mr. O'Connell stated that he understands.

Mr. Donovan asked for someone to explain to him if he was a member of the fire department or the police department why should the union officials or other members of the union have the right to say whether I am going to get this or not by signing a memorandum. He does not understand that.

Mr. D'Amore stated that in this case it is state law because it is a bargaining unit. It covers employees recognized by the state labor law. When the majority of the membership authorizes a collective bargaining agent, they authorize that collective bargaining agent as their sole legal representative and therefore that legal representative speaks for them and not every member is happy with every decision that is made by the legal representative. The hope is that in the end the collective decisions made by the legal representative of the workers are better for the largest majority of workers in the greatest amount of time.

Mr. Schweyer stated that he is going to take Mr. Donovan's question and look at it from a slightly different perspective, but he thinks he will agree with him. They have two municipal unions that are deliberately or not deliberately are holding up this process, the IAFF and the FOP. He stated as far as he can tell. He is concerned there are three groups of employees MESA and SEIU, those that are not covered by a bargaining unit who are being inversely impacted by the time it is taking for the other two units who represent less employees combined than the other groups to complete their own internal review of said proposed ordinance. He does not believe it is fair for employees covered by SEIU, MESA, those who are not covered by a collective bargaining unit to be held hostage by the other two municipal unit that have not yet to go through the process.

Mr. D'Amore stated that is an open question. He stated that Mr. Maley wanted to add something.

Mr. Maley stated that Mr. D'Amore is absolutely right. If you would read any of the labor agreements, you will see in the first preamble it is stated that they are the representative for all wages, benefits and working conditions. It is common amongst any union.

Mr. Donovan stated that he understands that. He does not have to agree with that.

Mr. Maley stated that is true, and with all fairness to the unions here and as he heard tonight that fire has more or less said that they will be in touch. Mr. Bennington stated that last week we have been on the phone and email. The FOP has notified him that they want to run it by their attorney. That is not uncommon for them. They run everything by their attorney.

Mr. Schlossberg stated to Mr. Maley stated by a legal perspective that the MOU signed by the SEIU and MESA and not yet by the IAFF and the FOP, they can legally extend health benefits for MESA and SEIU without running the risk for a labor complaint. He stated that part one is for Ms. Fruhwirth and part two is for Mr. Maley. He asked is that correct. He asked do they potentially run into problems if a week from today IAFF and FOP sign the memorandum of understanding. Are they potentially looking at getting into a messy situation where we have it ratified for two-third of three-fourths of city employees and than go back and tact it on to the remaining?

Mr. Maley stated that he will defer to Ms. Fruhwirth, but they are all individual units whether it is MESA, Fire, Police or the SEIU. If the others have accepted it, could you go ahead, he said yes.

Mr. Schlossberg stated that he knows that they can. Are they potentially going to run into a problem? Are they potentially legal issues that they could run into if the ratified two-thirds or three-fourths of employees tonight and taking care of the remaining piece in two weeks? How much is an issue could that potentially create.

Mr. Fruhwirth stated that would be correct. If you proceed with the SEIU and MESA there would not be problems since there are already these types of benefits in their plan. The difficulty would be a charge of an unfair labor practice that would come from the Fire, Police and the O&E.

Mr. Schlossberg asked Ms. Fruhwirth did she feel confident that they could do the SEIU and the MESA tonight.

Ms. Eichenwald stated that is exactly what we should do. They should deal with it with the SEIU, MESA, those employees that are not represented by a bargaining unit and let do that. In two weeks, we will address the other issues.

Mr. D'Amore stated that in that spirit he will use the privilege of the Chair to offer an amendment that gets to exactly gets to that end and this will go in under Section 1. D. Operation of the Ordinance



As of the date of effectiveness, the provisions of this ordinance shall become effective upon all non-bargaining unit employees, all employees whose job classifications fall under the SEIU collective bargaining agreement and all employees whose job classifications fall under the MESA "meet and discuss" unit.

This ordinance shall become effective upon all employees whose job classifications fall under the IAFF and FOP collective bargaining agreements if the following two provisions are satisfied:

- 1) the benefits provided in this ordinance are approved by the two respective unions and the administration following the appropriate collective bargaining process.
- 2) The City Council extends these benefits to employees under these two bargaining units by ordinance. (Passed, 7-0)

Mr. Guridy seconded the amendment.

Mr. D'Amore asked were there any objections to the amendment. He stated the Amendment is adopted by common consent.

Mr. Schweyer stated that Ms. Eichenwald is right and he apologized for not having the conversation before today. An issue was brought to his attention in a hypothetical and firmly understand that it is a hypothetical situation where the Commonwealth of Pennsylvania has begun to address same-sex partners and does recognize same-sex marriage and the concern is what happens to those folks that certainly is not intended to address a situation right or wrong because the Commonwealth does not in fact acknowledge same-sex marriage. He stated that a constituent emailed them about this...should the Commonwealth reverse that order or should there be a court injunction, what happens to those folks do they automatically drop their coverage because of the change until they are able to get married. He stated that he wants to respectfully offer an amendment that would also read under Section D.

This ordinance shall apply to same sex domestic partners insofar as state law prohibits such couples from entering into a marriage that is recognized by the laws of Pennsylvania. In the event that the Commonwealth of Pennsylvania recognizes same sex marriage, domestic partners who would be impacted by this ordinance will have a 90 day period of continued coverage in order to facilitate a marriage. (7-0)

Mr. D'Amore stated to Ms. Bradbury that she could not speak to anything that has not been seconded and asked if there were any objection from Council.

Mr. Donovan seconded the amendment.

Ms. Bradbury stated that part of the Ordinance is such that the only people that are eligible to take this benefit are the people who are not allowed to get married in the State of Pennsylvania. Is they are allowed for same sex partners be allowed to get married will no longer get this benefit.

Mr. Schweyer stated that it is a period from the moment that will go into effect until they can go through a marriage and a marriage certificate and doing those sorts of things and that would take some type. He stated that should same-sex marriage be recognized in Pennsylvania by definition they will automatically be expelled from this process. He is looking to give them a window so that they could move forward. He stated that is his intentions and that is the only reason. He stated to Ms. Bradbury that he understands that. He does not expect it to be tomorrow, but the goal at the very least is to give people the opportunity to be covered. If she feels it is unnecessary, he will withdraw the amendment. He wants to make sure that folks are covered.

Mr. D'Amore stated that there are no objections by Council this bill by common consent stands amended. He stated that he will add another amendment. There two other brief amendments to put in. He stated that also, Section 1. D. Operation

To the extent that any applicable health plan requires an affidavit that is inconsistent with the parameters of this ordinance, the parameters of that health care plan affidavit and health care plan will control.  
(7-0)

Ms. Eichenwald asked and if this means what.

Mr. Guridy asked what section was he on now.

Mr. D'Amore stated that it is Section 1 Part D Operations of the Ordinance and is in the same place where all the amendments have been. This was placed in because they found it necessary because effectively they have the members of the SEIU bargaining unit are covered by the SEIU's own healthcare plan that has an affidavit for domestic partners that happens to be different from the affidavit that is provided by Capital Blue Cross which covers the insurance for our employees in the other job classifications. Since there could be no reconciliation to those affidavits, the only solution is to say that the affidavits from the insurance company since the insurance company can reject the benefits anyway if there parameters have not been met. Effectively, all this amendment does is recognizing the insurance company's legal authority to make that determination as they do. It is just recognizing that the healthcare plan affidavit shall control if there is one. He asked were there any objection to that.

Mr. Donovan stated that in looking at a couple other cities other cities around the country that have implemented this. They seem to follow that and are typically six months. For those out in the audience that was it is consistent with other cities are doing.

Mr. D'Amore stated that as the drafter of the ordinance his sense is that thirty days he did his best to premise this ordinance creating as much equity as possible in the Commonwealth of Pennsylvania one could be married after separating a marriage in thirty days. He stated that it could be true and thirty days is true for a heterosexual couples than thirty days should apply for a homosexual couple as well. He stated that they will begin to start talking about the pension benefits. The reality of this is that on this matter what he will dare have the opportunity to editorialize. The good news is that they have a number of pension plans that cover employees in the city. A majority of the employees are covered under that is operating in Pennsylvania on the behalf of the municipality which is referred to PMRS Pennsylvania (Pennsylvania Municipal Retirement System) which is a retirement system and the PMRS effectively today allows for employees to designate domestic partners as beneficiaries. It is a beneficiary system that is set up like private insurance policies. A beneficiary does not have to be someone that you are married to or a child or does not have to be someone that you are related to. The majority of the employees that are under PMRS do have the opportunity to do that and has been a major concern of his that some employees are not aware of that and he would like the administration to take the mantel of education and inform all the employees of the options that they have and of course reminding that they do not administer PMRS plan, PMRS administers that plan, but we can still provide some level of education to our employees to allows them to be knowledgeable of the possibilities that are available to them. The second, third and fourth pension plans are specifically designated for Police, Fire or a pension plan that is O&E and it is effectively a pension plan that went into effect before the city went into the PMRS system and employees that were still here had an option to stay in that program and there is a small number of employees dozen or twenty that are still active employees to the city and is covered by the O&E. There three pension plans are administered by the city and have separate pension ordinances for each of the pension plans, but also these pensions plans must be administered under state regulation and there are a number of state laws which applied to these pensions plans. It is a regulator law that makes sure that we are doing right by these employees regulated by these pension plan laws. He asked Ms. Fruhwirth whether they can extend these benefits or not. He stated that the answer right now is that they are not clear.

Ms. Fruhwirth stated that would also be correct. The solicitor's office suggested at this time is to have an advisory opinion made by the state as to whether the pension plans administered by the city is consistent with the state law. The suggestion would be to not have this ordinance apply to the pension plans that you outlined FOP, IAFF and O & E.

Mr. D'Amore stated that the final amendment of the ones that are written down to offer and is also under Section 1. D. Operation of the Ordinance.

Mr. Guridy seconded the amendment.

Mr. D'Amore stated by common consent the amendment is adopted.

Pension benefits associated with active or retired members of the Police, Fire or Officers and Employees pension plans are not included in the operation of this ordinance. (7-0)

Ms. Bradbury stated that she was here to discuss the cost of the Pension Benefits. She received confirmation from the city that the actuarial provider has admitted that they did an estimate based on all employees. The figures in the actuarial study are hugely over-estimated and the study is worthless. The study assumes that 80 percent of police and firefighters are married and that adds ten more percent to cover domestic partners and clearly that indicates that any police officer or firefighter that is not married is gay. Of course, that is not true. Actuarial studies are educational estimations which have a margin of error. She hopes that the city issues a strong retraction of this erroneous data and gets the new study published.

Mr. Strathearn stated that on the actuarial study, the study was a response to specific questions sent our by Mr. Hanlon. It is his understanding that he recalls seeing the request. It did not specifically request about same-sex partners. The classification was domestic partners.

Mr. Hanlon stated that he sent the ordinance.

Mr. Strathearn stated that the actuarial firm that they used is one of the best in the country by the state of Pennsylvania. They have an excellent reputation in the field and are an actuarial firm for many cities, municipalities, organizations, companies, corporations all over the country. If there is an error and he agrees by looking at the entire population and understands the response this afternoon. They did look at the population because they have to look at the numbers. As an actuarial company they have to look at specific numbers. They have to look at the worst case scenario. This is an actuarial firm that has done a phenomenal job for our police, fire and O & E pension plans and one of the tops in the country. This study was commissioned by the Council and he has no idea how this got to the paper. If you send them specific questions, they will send you specific answers back. He stated that this is an organization that we depend a lot on and they have done an extremely good job for us in a very difficult situation.

Mr. D'Amore stated that he appreciates that and asked Mr. Hoffman does he have additional comments to make on this matter.

Mr. Hoffman stated that his questions was on PMRS and asked if they are saying that even though the city does not allow for domestic partner benefits that someone that is a member of the SEIU or PMRS plan have that right.

Mr. D'Amore stated that is correct. The way PMRS is structured is that you as a retiree at the moment of your retirement make two choices. Do you want to take out and do you want to take an individual payment or do you want to take a payment with survivor benefits and of course that payment that you take is reduced and it is reduced by your second question of who do you want to designate as your survivor and you can designate

according to PMRS or anybody you wish as your survivor and your pension payment is reduced in accordance with the age of the person you select. If you choose your grandchild, you will get a very low pension payment, but your two year old grandchild will continue to get those payments in the future. Under that PMRS administered plan, you can select anybody and does not necessarily have to be someone related to you.

Mr. Strathearn stated that you can designate any beneficiary to an insurance policy to be the recipient and that is how it is without any recognition of relationship status. Under PMRS, he thinks you could if you are single designate it to charity.

Mr. D'Amore stated that he wants the administration to take on the task of educating employees so that employees can do that.

Mr. Strathearn stated that when he joined the city he became a member of PMRS and he received a packet of information that stated welcome to PMRS with a booklet and they walk you through everything. He stated that he has called their offices several times mostly on city stuff and been to a conference with their executive director and he got to say it is one of the most open, transparent organizations in government.

Mr. D'Amore stated that they were very direct with their answer and the answer came from Jim Allen asking why Council is passing that, the employees could that already. He stated that he does not think that is something that is common knowledge and it would be important that it becomes common knowledge.

Mr. Strathearn stated that it would after tonight.

Mr. Schlossberg asked if they all agreed that the actuarial study was an incorrect study and the conditions were assumed by the firm were incorrect. Somebody made a mistake and just like the private sector, mistakes happen all the time. The best that they could do is move on and conduct the appropriate study. He stated that \$160,000 is a ludicrous number and he is sure the number will be in the tens of thousands. The best thing they could do is conduct the study and get the most accurate information with an accurate number and move on from this issue. He stated that they are going to do it the right way.

Mr. Donovan stated that he does not know what it looks like to the public about all this, but one thing that is bothering him is that council is part-time and does not have any additional legislative assistance other than Mr. Hanlon and the confusion is that they have to hammer out amendments and council does not know all the information is quiet frankly because council is left somewhat blind. None of them are experts on benefits. He stated that just for the public to know that they would not get this type of ambiguity if council for example was budgeted one or two people that could actually do the work that is necessary to get it right. Here we are discovering facts at the last moment and the last weeks and been discussing it for three months. It is a good example of how screwed up how some of our legislations and processes are. The Charter also has issues. If you want legislation that is cleaner and the homework has been done and workshops have been done he strongly suggest that they take a look at how council is assisted in terms of developing legislation.

Mr. D'Amore stated that since they have been debating this for quite a while perhaps it would be appropriate to vote on these amendments to be clear. If no one has any objections to that he will ask if there are any further comments on the amendment from the public.

Mr. Bennington asked what amendment Mr. D'Amore is talking about.

Mr. D'Amore stated that he will re-read the amendment.

Pension benefits associated with active or retired members of the Police, Fire or Officers and Employees pension plans are not included in the operation of this ordinance.

Amendment passed, 7 – 0.

Mr. D'Amore stated that they now have the bill as amended. Are there any further comments from Council or the public on the bill as amended?

Mr. Shanker, 1020 Chew Street, stated that the votes tonight from Council are very critical and the votes are one of the rare times where they have the opportunity to advance meaningful civil rights legislation. This vote will provide equal benefits for all your employees regardless of their sexual orientation. Benefits like access to one's partner's healthcare plan, benefits like family medical leave or bereavement leave for one partner. This vote is about the City of Allentown publicly stating that same-sex relationships are recognized as legal. This vote is protest for the lack of equality provided by the Commonwealth of Pennsylvania. This vote is about attracting and retaining the highest quality workforce for the city's staff as the vast majority of Fortune 500 companies have done by offering these benefits. This vote is about putting Allentown on the map as a place where people like him who chooses to live, work and visit. This vote is about fairness, equality and dignity for gay, lesbian, bi-sexual and transgender taxpayers like him that wants the assurance that the city recognizes who we are. This vote is about honoring dedicated and hardworking city staff members like retiree David Moyer who simple wants to add his partner Will to his medical insurance. This vote is about each one of you knowing that you did your part in making Allentown a more equal place. Thank you for your past support of this bill and strongly urged them to vote tonight yes for this legislation.

Felix Melina stated that he is a former Human Relations president and left the City of Allentown about four years ago to go to the City of Philadelphia and came back about two months. He stated that he is happy to see a different City Council. Last time when they tried to pass it there were about 300 people did not side with them. He stated that he really urged them to sign this Bill and it makes him proud to come back to Allentown.

Ms. Cruciani stated that she is a thirty-five year resident of the City of Allentown. Over the years she has owned three homes in the city and like other homeowners in the city she stated that she paid her fair share of taxes. She stated that she is a proud lesbian thirty year employee of a Fortune 300 corporation whose headquarters are in Allentown. The company employe 13,000 people worldwide and in 2001 she founded and president of a GLBT business group and her group is well respected and has numerous accomplishments in the last eleven years. In 2006, they made their business case for domestic partnership benefits and in 2007 GLBT management granted employees full benefits. The company also employees union works and in 2010 the union granted the same domestic partnership benefits for their GLBT employees. The cost to the company has been less than one percent overall. In 2008, she approached the president and thanked him for supporting them in the benefits. She knows that it was time that it was the right thing to do. She thanked the Council for their consideration.

Mr. Ted Martin stated that he is not from Allentown, but he is the executive director for Equality Pennsylvania which is the statewide Lesbian, Gay, Bisexual, and Transgender advocacy organization. He stated that it is the land of no. He works in Harrisburg every day and it is a land of please no, do not do this and please do not do this to us. This is refreshing and wonderful to come this evening and say to them to support. He stated that do not do what is right, but do what is good. In all the discussions that you just had you were actually doing the job that our state legislators should be doing. He stated that many of them say that they just can not do that. They say if you get these things done locally, then they can consider having it done in Harrisburg. This is a story that says that Allentown is a good place and a fair place.

David Moyer stated that he has been with the exception of his time in the military a lifelong resident of the City of Allentown and was an Allentown city employee for twenty years. He celebrated his first year of retirement. He stated that he loved working for the City of Allentown and everyone knew he was gay. Everyone in his department was married and they did the same job. He was a senior person so he did a lot of training in the

department. Everyone knew he was gay and in a relationship. Some of them thought that he had benefits for his partner. He stated that he has been in a relationship for thirty years. Liz and Trish have done a great service for couples that are in committed relationships. He and his partner have a mortgage together with both their names on it, a checking and savings account with both our names on it and all the utilities have both their names on it. The only thing that they do not have is a marriage license, medical or dental benefits with their names on it. He does not think it is fair that he can not have the same benefits with him (Will) who was and still is self-employed that his fellow co-workers had for their partners. He urged them to pass this piece of legislation and provide the same benefits to all the city's employees.

Allyson Diane Hamm stated that it is very important to her to have these benefits. In this economy we want to do the best that we can for the most amount of people for our city. She stated that she has had some struggles and would have jump on a change with an employer the provided domestic partner benefits and provided benefits. She stated to retain the people that have been here for a long time or to bring in people this is a way to do an economically good business for the employees.

Mr. D'Amore stated that the city paid for an actuarial study and we should get an appropriate on. He would agree. He asked were there any other comments from Council or the public before he takes the vote.

The Bill as Amended passed, 7 - 0

**11. ORDINANCES FOR INTRODUCTION:** None

**12. CONSENT AGENDA:** None

**13. RESOLUTIONS ON SECOND READING:**

**R1 HARB DENIAL**

Denial of Certificate of Appropriateness: 236½ N. 11<sup>th</sup> Street

Mr. Schweyer stated that it is a denial on Certificate of Appropriateness. HARB ruled against this 5 – 0. Mr. Hartney was here from the administration and they all suggested that he went home. The property owner was not here during the Committee hearing to wage an objection. The property owner is working with HARB to find a solution that is cost effective and still maintains that historical nature of his property. It was recommended favorably for the denial 3 – 0.

Resolution passed, 7 - 0

**14. RESOLUTIONS ON FIRST READING:**

**R2 HALL ST RACP**

Authorizes submission of a \$250,000 Redevelopment Assistance Capital Grant for the construction of a micro-distillery at 24 South Hall Street

Mr. Schweyer asked if they could vote on R2 and R4. They considered it at the CEDC meeting this evening.

Mr. D'Amore asked was there any objections to voting on R-2 this evening.

Mr. Schweyer stated that R2 which he will have to recused himself from is an authorization of an RACP for \$250,000 for the construction of a micro-distillery at 24 South Hall Street and will employ ten employees in Center City. He stated that he had to recuse himself because in his professional life he helps to secure these funds.

Resolution passed, 7 – 0

### **R3 AEOP**

### **Referred to Public Safety**

Adopts the Allentown Emergency Operation Plan (AEOP) as Amended

Mr. D'Amore stated to Ms. Fruhwirth that his understanding that from Fire Chief Scheirer that there are matters in that plan that is not by Federal law made to be public. They are allowed to have an executive session with him on that considering that the federal law requires.

Ms. Fruhwirth stated that federal law prohibits the disclosure of certain aspects of the plan.

D'Amore stated that they as a full body of Council can call an executive session with Fire Chief Scheirer on that matter.

### **R4 HRA HOMESTEADING**

Authorizes the filing of a proposal for \$150,000 in funds with the Department of Community and Economic Development (DCED), Commonwealth of Pennsylvania to establish a revolving loan fund that will be necessary to further prevent or eliminate the existing blight condition by providing quality affordable housing through the City's Homesteading Program.

Mr. Schweyer stated that they did unofficially consider this. It actually passed in an ordinance in a prior council meeting however the language is slightly different as a requirement from DCED to approve this. This is still the intention of the funding is still the same \$150,000 for the Homesteading Program to help alleviate blight. They unofficially recommended it favorable 3 – 0. He requested that Council vote on it.

Resolution passed, 7 – 0

## **15. NEW BUSINESS**

### **16. GOOD AND WELFARE**

Mr. Schweyer stated that he and Ms. Eichenwald had the privilege of attending the Martin Luther King Day celebration at St. James AME Zion and it was a fantastic display. It was very well received and he thanked the organizers, the Allentown branch of the NAACP and St. James AME Zion for their continued efforts on this program.

## **17. ADJOURN 9:21 PM**

*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 [hanlon@allentowncity.org](mailto:hanlon@allentowncity.org) to receive an email notice of the meetings.*