

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

Allentown City Council
435 Hamilton Street



Allentown, Pa. 18101
Phone: 610.437.7539

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COUNCIL MEETING MINUTES – 7:30 PM
October 5, 2011
COUNCIL CHAMBERS

1. Invocation: Jeanette Eichenwald

2. Pledge to the Flag

3. Roll Call: D'Amore, Donovan, Eichenwald, Guridy, O'Connell, Schlossberg
Frances Fruhwirth represented for Solicitor's office

4. Courtesy of the Floor

Mr. Lou Hershman stated that he is looking forward tonight to the MMO. He stated that Council usually distributes it in the first meeting in October.

Mr. D'Amore stated what the MMO will be next year, they do have that.

Mr. Hershman stated that he is looking forward to reading it tonight. He stated that before he came over he read that Mr. Donovan was going to provide a report on the audit. It was on the internet that Mr. Donovan was going to discuss the \$3.5 million deficit we have at the end of year.

Mr. Donovan stated that he did not do that.

Mr. D'Amore stated that Mr. Donovan at the committee meeting will say whatever he wants to say, but if Mr. Hershman has anything to share, please do so.

Mr. Hershman stated that he would like to share that Mr. Donovan told him to contact the solicitor's office to get the opinion on the Freedom of Information which he complied and they gave him the same responses and Mr. D'Amore, president of City Council gives him, no. He asked if they found out any more information about the taxes going to Harrisburg. The 35 percent increase will go to Harrisburg and the Neighborhood Improvement Zone.

Mr. Donovan stated that he explained and it is the EIT and the NIZ and the flow of funds. He stated that he explained that in the room several times.

Mr. Hershman asked Mr. Donovan what he said. He stated that he wants to know if the money is going to Harrisburg or staying in Allentown.

Mr. Donovan asked Mr. Hershman has he read the NIZ legislations. The NIZ legislation says it collects all taxes and other fees, but real estate and it flows to Harrisburg to be reimbursed in the pay down in the bonds or reimburse the excess funds to various entities.

Mr. Hershman asked it that thirty-five percent increase going to Harrisburg on top of the one percent.

Mr. Donovan stated that as far as he knows that was all that was excluded. It is part of our general EIT. We now have a general EIT tax of 1.35%.

Mr. Hershman stated that it is all going to Harrisburg.

Mr. Guridy stated that it is coming back.

Mr. Hershman stated that it may not.

Mr. Donovan stated that he said repeatedly that the way it is structured the financial arrangement is being made and is anticipated that the funds needed for the bonding will be stated funds and not local funds. The people who are advising us on that, he respects highly as financial professionals. They are structuring it in such a way that while the legislation takes all state and local funds, but for real estate. It is anticipated that the state funds are sufficient to finance the bonds. He stated to Mr. Hershman that as a business person he should understand that there are always chances and probabilities that not everything will occur. He stated that he is willing to say that too, but is not saying this is 50/50. He believes that there is a very small chance that these local funds will be used. That is what has been expressed to him and if there are any changes that comes to change his mind he will dispute the project, but right now the information has come to him on what is attempting to be planned and the local funds will not be used.

Mr. Hershman stated that a lot should be shared with the public.

Mr. Donovan stated to Mr. Hershman that he has gone on record with the press, the public and various committees stating that he is disappointed with the Mayor's communication plan through all this and is disappointed that certain operational plans promise within a hundred days did not come through. This project is an important project. He stated that if there is someone that he will criticize, it is not the professionals involved in this project. He believes that the mayor made a mistake in handling a project that could be controversial like many of controversial projects throughout the country. What should be private versus what should be public and leaving people like yourself asking questions. He stated that he respects Mr. Hershman's concerns.

Mr. Hershman thanked Mr. Donovan.

Mr. Ernie Atiyeh stated that last Council meeting he had asked about possibly putting funds aside for next year for some neighborhood initiative strictly for neighborhood groups and he did contact Mr. Schweyer and he will meet with him next week.

Mr. D'Amore thanked Mr. Atiyeh and asked was there anyone else for courtesy of the floor.

5. Approval of Minutes: September 21, 2011

Minutes approved by common consent.

6. Old Business

Ms. Eichenwald asked has a meeting been set with ACIDA, AEDC, Ms. Hailstone and the Mayor.

Mr. D'Amore stated that they put out a request for all those parties and gave them some dates and they have not responded.

Mr. Hanlon stated that the Mayor came back and suggested that they have a meeting in mid-November and he will have a meeting with the parties and Mr. Dunn.

Ms. Eichenwald asked about ACIDA and AEDC will be here.

Mr. Hanlon stated that the Mayor stated that he will setup the meeting.

Ms. Eichenwald stated that this is a major concern. She stated that they are already sitting here and the days of October are fleeting and we still have no meeting setup. ACIDA is on the auspices AEDC and AEDC is under the auspices of City Council. She stated that they are the taxation body and judiciary responsible and our request is important, necessary and must be complied with as soon as possible.

Mr. O'Connell seconded Mr. Eichenwald's concern and ask can they demand a public hearing. He stated that they are being driven around. We need a meeting with the Mayor, ACIDA and AEDC and City Council to get things on the table. We are told what they want to tell by certain people. People ask every Councilperson on the dais what is going on with the Arena. He stated that he does not know and he wants to know. He stated that he wants answers and they need a resolve here. He stated that the buildings will be coming down no later than November, early December. He stated that demolition will start and they have to have a meeting beforehand. It is not a good situation; they look foolish when they are asked questions in public.

Ms. Eichenwald stated that the money that is going to be used on this program in many ways is ours. It is taxes. She stated that she understands that it goes to the state, and then it comes back. She stated that they are the taxation body and by we is City Council and that can not be forgotten. She stated that they are owed a meeting.

Mr. Donovan stated that he is tired of opening the newspaper and getting information. He stated that he felt even as a member of AEDC he should know. He stated that his big concern and if the mayor was here he would tell him directly. This is a great project as far as he has determined based on what has been given to him in terms of the information. He stated that if any one is going to screw it up, it is going to be the mayor. The reason it is because of lack of information. The public is going to get angry and rise up even though it is a great project and everyone in the city can benefit. He thinks the mayor is making a mistake about how to communicate. He stated that he has said it to him and important people in this town has said it to him that he needs a better plan of communication and it is not happening and they are getting closer and closer to start dates. He stated that he is tired of people stated that things smell and there are favors.

Mr. Guridy asked for a clarification about the NIZ was that resolution saying that we are giving up the control of that money that is going to Harrisburg and coming back.

Ms. Eichenwald stated no.

Mr. Guridy stated that it is a state law and asked if they still had control over it.

Mr. D'Amore stated that they never had control over it. This is money that will be paid through state taxes. It is the state legislation that is reassigning that money.

Mr. Guridy stated that it is not our money anymore. He stated that the way Ms. Eichenwald said it, although he agrees with what she is saying he also felt that it was also given the impression that it is our money.

Mr. D'Amore stated that it is not our money in the first place.

Ms. Eichenwald stated that the money does come from the citizens. At one point it was your money, it was my money.

Mr. Guridy stated that it is our money because we pay it, but we do not have any control of the money or how it is spent.

Ms. Eichenwald stated that City Council is the taxation and is responsible for issuing taxes.

Mr. D'Amore asked Mr. Strathearn to clarify the terminology.

Mr. Strathearn stated that he has not been involved, he just monitored the legislation. He stated that he and Mr. Bennington will take note of City Council's concern and will express it to the mayor first thing tomorrow. He stated that in terms of how the money flows, yes there has been legislation on it, but as they know with legislation there are rules and regulations implementing the legislation and he does not know the status of the rules and regulations and exactly how it flows. It is specifically for the 130 acres under the NIZ.

Mr. Guridy stated that it is just the NIZ money that they are concerned and he thinks that he does not want to give the wrong impression to the public of this is going to be money to mandate and control because it is actually going to ACIDA and ACIDA has control over the money. He stated that he understands what Ms. Eichenwald stated that ACIDA is on the auspices of AEDC and AEDC is under the auspices of City Council. It creates and understandable problems which gives more fuel. They would need to have an understanding of it.

Mr. Strathearn stated that they will relay the message in terms of the meeting. There is a tremendous amount of moving parts and he is glad Mr. Donovan is in support of the project. A lot is based on state legislation and they still have to get the rules and regulations. He stated that the department of revenue is involved, the state treasury is involved because the flow of the money. He stated all for the benefit of the area and coming back to the city.

Mr. Guridy stated do not get me wrong, we all are in support of the project. He stated that a person they should invite to the meeting is Mr. Scott Shearer along with ACIDA, AEDC, and the mayor. He stated so that they all know what is going on and know who is getting the money, who is paying and how much control does we have. He stated that he hears Mr. Hershman coming to the podium saying this is our money and the city should have legislation saying how the money is going to be distributed. He stated imagine the public.

Mr. Strathearn stated that they are looking for the flow of funds. It is laid out in the legislation. He stated that not only are they the first, but is the only city that benefits from this legislation. Every step is and when you have various state agencies involved to make sure as he understands it the huge bulk of the revenue that will come from this is state revenues. We have the directed revenue, the state treasurer, and he does not know how it would play with us. He stated that he totally agrees that they should have Mr. Shearer here.

Ms. Eichenwald stated there is a fine line between legal government and good government. In good government it is transparent government and the way she sees it the only thing that they were able to control up until now is eminent domain. At some point down the line as the project is development and undertaken they will vote on street vacation and she is not, not in favor of the project but thinks as City Council they should have an open and honest discussion and include the flow of funds and beyond that. AEDC is in charge of ACIDA and the City Council is the controlling body in many ways and they need to come. She stated that she hears all kinds of rumors that in November, buildings are going to be knocked down. We pressed this two weeks ago, four weeks ago, six weeks ago, and eight weeks ago and can go all the way back to the begin of time on this project and they are sitting here on the first week on October and still no meeting date.

Mr. Donovan stated that he understands the legal situation, but one thing that has concerned him is that Mr. Bennington and Mr. Strathearn have not been involved with this project. It has been really the director of community development and the mayor. He stated that they have legal representation out there that is involved with AEDC and ACIDA. ACIDA is a separate authority in which the mayor selects the participants.

Ms. Eichenwald stated that there is a City Council member on there.

Mr. D'Amore stated not on ACIDA.

Mr. Donovan stated that AEDC is a separate corporation/private. He stated that he is a representative, but ACIDA has a management contract with AEDC. It is not clear who is over whom. It is just two separate entities. The public one is ACIDA, the less than public one is AEDC. He stated that his concern has been that the mayor has kept a lot of things close to his chest and Council has been briefed by some professionals involved, but what happens is with a complex project like this where some information will be public and some information for real estate purposes be private. There has not been a very good job being able to work with the community. Even the flow of funds he hears forty different interpretations of the flow of funds and he is going by the one Mr. Scott Shearer told him. That is the funds flow to the state and goes into a sinking fund and bonds are paid off. Either ACIDA or another authorized authority will be the owners of the land and their will be a pilot for ACIDA back to the city, county and the state. He stated that you have never had a public presentation of that to various people. You have to go with a small group at first because it is a complicated question and answer session. He stated that he did a presentation to the Chamber to the best of his ability and people walked out with an understanding and he did not say anything different from what he is saying now, but he should not be the one that is doing that the mayor should have been there and other places. He stated to Mr. Bennington that it is important that the mayor knows their concerns.

Mr. Bennington stated that sometimes it is premature to give and you have to determine when it is best to provide information. He stated that he does not know when that time is.

Mr. Donovan stated to Mr. Bennington that he knows he does not, but the mayor does.

Mr. Strathearn stated to Mr. Donovan that these things are still and it is just his observation, he is not privy to this stuff he just been around these projects for a very long time there are still negotiations going on. He stated a lot of stuff is still going back and forth between the state. He stated that the mayor knows in his head where he would like it to go so other entities are involved.

Mr. Donovan stated that they are the people that sit here and have the public say what's going on. We are perfectly willing to say some things can not be let loose yet, but at the same time the mayor is not the one getting the crap.

Mr. D'Amore stated that the positions here are clear. He stated that Ms. Hailstone has made the offer and that offer remains that she will continue to give any council member that is interested a regular update on the process. There are certain things that need to remain privilege information because as Mr. Strathearn mentioned there are negotiations and if certain information becomes public, it compromises the negotiations. That is something that is true. That does not mean that the council members can't get that information through regular updates with Ms. Hailstone. He stated that they need the mayor stepping forward particularly with council and he thinks that it is wise for them to remember that Senator Browne is a very important person that they should all be talking to because we all his constituents. He stated that they should do that as well and he is sure that Senator Browne will be glad to give us some information should we ask for it.

Mr. Schlossberg stated that he feels reasonably comfortable with the information that he was given by Ms. Hailstone. He met with her on a few occasions. He stated that the information that he does not know he

believes that a lot of people do know. This is an extremely complicated project with a lot of moving parts to determine every aspect of. He stated that everybody that he talked to he urged patience and asked for understanding because with a project like this with so many moving parts there will be things that will go wrong, will not go ideally and that is a reasonable request. He stated that he feels relatively information of the process and is an elected member of city council and has access to staff and resources that the general public does not. He stated that he does not think it is unreasonable even slightly to say there are things on this project that we can't tell you right now. That is a totally legitimate request and if somebody does not understand it, you could only do so much. There are aspects of this project that could be made public comfortably without affecting the overall health or progress of this project and he believes it is totally legitimate for a resident of Allentown to say what you are doing. There are things that could be made clearer that has not been made clearer. They can and should do better.

Mr. Guridy stated that he is satisfied with the comments and the comments were appropriate.

Mr. O'Connell stated that he echoes Mr. D'Amore and Mr. Schlossberg's comments.

Mr. D'Amore stated that for the record ACIDA is an authority that is financing conduit for industrial development bonds, small business administration loans and other economic incentive programs. ACIDA is supported by the staff of AEDC which means that the executive director and the other staff at AEDC is effectively the same staff of ACIDA. ACIDA is an industrial development authority created by enabling legislation of the state and by the ordinance of the City of Allentown. The ACIDA board members are staffed by the mayor with the approval of council. AEDC as Mr. Donovan mentioned is a private not-for-profit corporation of which in the Charter of that corporation city council has a representative that happens to be Mr. Donovan. The reason why ACIDA has become the NIZ authority is because at this time the only industrial development authority that satisfies the definition under the NIZ state legislation. The only body at this time is ACIDA that may not always be true right now.

Mr. Guridy stated however and he agrees with Mr. D'Amore 100 percent, but they must keep in mind that ACIDA does not have a staff, just the board of five members. He stated AEDC has a staff and they work for the city.

Mr. D'Amore stated no, they work for AEDC.

Mr. Guridy stated that they work for AEDC, but they are supervised by the board.

Mr. Strathearn stated that Mr. Donovan can give a better description, but if he not mistaken, AEDC board includes a county representation.

Mr. Guridy stated that he understands.

Mr. D'Amore stated that half of the board of AEDC comes from public entities and half comes from private entities. The Chamber has a rep.

Mr. Strathearn stated that their points are well taken and he will continue this first thing in the morning.

Mr. D'Amore stated that city council's control from AEDC comes from funding and the budget is coming up. The leverage they hold over them is to the ability to remove funding for AEDC.

7. Communications

Mr. Guridy stated that there have been several deaths or jumps from the Eighth Street Bridge in the past few months and he received a lot of calls about it. This has been going on for years and years and years. He stated that at one point several years ago, he was trying to ascertain how they can put a fence on the bridge. He stated that he was told that they have no control over it because the state owns the bridge and only could control it. He stated that these are our citizens that are dying. Last month, it was a sixteen year old girl jumped and died. Before that two gentlemen and there has been about eight this year. Although, it is not a bridge of the city, it is in our city and our citizens that are jumping. He stated that it behooves us as city council to try to do something or work out something with the state to do something about it. He stated that putting up a fence is not a difficult thing to do, but he heard that the cost is too much and he heard they want to put a telephone there in case someone wants to jump they can call 911. He stated that he does not understand it. He stated that they should send a letter. He stated that he had people call him wanting to raise money to erect a fence. He contacted Senator Browne's office and the Department of Transportation on Tenth Street. They spoke to Ron Young. He stated that the city council members should be worried about something like this and we as a city and government should get some response from this to prevent people from jumping from the bridge.

Mr. Young stated that they have contacted PennDot on numerous occasions over many years about putting a fence on. There are issues, the bridge is a historic bridge and the fencing that would be put on it would have to be something that the architecturally compatible with that type of structure. PennDot is in the process of doing a design on a rehab on the bridge and the plans do call for fencing. Right now it is funded for design not for transportation improvement. The last estimate he heard was about \$15 million for construction.

Mr. Guridy stated for \$15 million for construction of a bridge is not a lot of money for a bridge of that size. He stated that is 1800.

Mr. Young stated 1913. At the time it was built, it was the largest concrete bridge in the world.

Mr. Guridy stated that it is ok to do something. The public is not informed and there should be some preventive action taken to in the meantime they only fund the design it would to years and in the meantime they can take action with innocent jumping almost every month.

Mr. Young stated that they made contact with PennDot several times and he understands what Mr. Guridy is saying. He suggested maybe something from city council would be helpful.

Mr. Guridy stated and the Mayor and asked Mr. Hanlon to create a Resolution that city council can send to PennDot, the Governor, and people that are in charge with the historical association on the state level.

Mr. Young suggested the Secretary of Transportation.

Mr. Donovan thanked Mr. Guridy for bringing it up. It alerts of to the issues of mental health in this city. Mental Health is one of the most serious health problems in the United States and it is often pushed under the rug because no one wants to talk about it and it is hard to find professional staff that knows how to work with individuals who may be troubled. We can't necessary solve and the last resort is putting a fence up and there is a deeper issue here especially the poverty that exist in the city. It is not just the individuals we are trying to save. He stated that his son suffered from losing two friends from suicide within six months and it has affected him and his friends for years.

8. REPORTS FROM COMMITTEES

Budget and Finance: Chairperson Donovan

The Committee met last Wednesday and talked about the bond issue and the status of the audit. The draft audit is with the Administration; the next meeting is scheduled for October 26th at 6:00 PM and will include a review of the month's financials and a budget preview which might include a multi-year financial plan to deal with increased costs and the CAFR.

Public Safety: Chairperson Guridy

The Committee met this evening; all the public safety departments and there were wonderful presentation by EMS, the fire department, the police and 911....Part I Crime decrease by 11.99 percent in the city. The next meeting is scheduled for November 2nd if there are agenda items.

Community and Economic Development: Chairperson Schweyer

The Committee has not met since the last Council meeting the next meeting is scheduled for October 12th at 6:00 PM to review and preview of the CED's budget.

Parks and Recreation: Chairperson Ray O'Connell

The Committee has not met since the last council meeting; the next regularly scheduled meeting is on October 19th at 6:00 PM - which will consist of a budget preview meeting

Public Works: Chairperson Schlossberg

The Committee has not met since the last Council meeting; the next meeting is scheduled for October 12th at 7:00 PM, this meeting will be a review and preview of the Public Work's budget.

Human Resources, Administration and Appointments: Chairperson Eichenwald

The Committee has not met since the last meeting, there are no future meetings scheduled.

Rules, Chambers, Intergovernmental Relations and Strategy: Chairperson D'Amore

The Committee met and they referred a Resolution to the Council meeting as well. All member of council can participate.

OTHER COMMITTEE REPORTS

Mr. Guridy stated that they had an Allentown Housing Authority meeting since the last Council meeting and they should have the minutes.

CONTROLLER'S REPORT

Mr. Hoffman stated that they did get the Actuarial Reports for Police and O&E. They have delayed Fire because of negotiations. The bottom-line is Police and O&E and unfunded liability did grow which is a function of the market. The city is still in a distress level two. All Council received them and he will be happy to email them.

9. APPOINTMENTS:

Electricians Examining Board Appointment: Vincent Kidd

Resolution passed, 6 – 0

10. ORDINANCES FOR FINAL PASSAGE:

Bill 67 Refinancing and Issuance of General Obligation Bonds

Capital Projects Funding (not to exceed \$4,000,000) and Refunding of General Obligation Bonds, Series of 2001 Bonds and Guaranteed Sewer Revenue Bonds, Series of 2001 and Guaranteed Water Revenue Bonds, Series of 2001 General Obligation Bonds, Series A of 2011.

Mr. Donovan stated that they reviewed this at the meeting and there is new money not to exceed \$4 million and he believes Council has the listing in front of them and the largest project is reconstruction of the firehouse on the east side and the second largest is Residential Street construction and then a variety of smaller project

and down to \$25,000 for traffic signal modernization. The focus is on bridges within the street construction and Union Street Bridge at \$335,000 and South Albert Street Bridge at \$315,000. There is new money and refunded and the refunding is General Obligation, Water and Sewer and not extending the loan, just refinancing it at a lower rate. They have ten years left on each of the bonds. The present value of the savings total \$216,000 for the General Obligation portion and \$280,000 for the water and \$66,000 for sewer and these are rounded numbers. The city has an option on how to take those savings and the budget and finance committee recommends that the savings be taken over the life of the ten years rather than right up front and the savings go to debt services. The committee felt it was best to stretch it out. As with all bonds, the legislation requires the total required savings be designated in the ordinance and the total savings that they are anticipating is \$562,000 which is net of their fee. The \$250,000 is a safety measure. There will be an amendment that specifies the bonds savings will be applied on a leveled basis. He made the motion and that that it is on page 5 of the major ordinances for the bonding and after the phrase of at least \$250,000 (The required savings). He read.....The following amendments are offered to Bill No. 67 of 2011 as originally submitted to City Council for preliminary reading on September 21, 2011. 1. Language was inserted in the Ordinance that any debt service savings realized from the retirement of the Prior Bonds shall be taken over the life of the remaining debt service payments in accordance with and in a manner consistent with option 2 as set forth in the financial analysis ("Financial Analysis Report") prepared by Public Financial management Inc.

Mr. Guridy seconded the motion.

Mr. Donovan stated that the committee recommended the bonding with the level of payments 3 – 0.

Mr. O'Connell asked about the closing of the east side fire station does that affect \$1,850,000. He asked would the east side fire station be a new fire station.

Mr. Scheirer stated that there is no change to that number in the ordinance. He stated that it would be new. It will be reconstruction terminology and they will demolish the existing building and build a new one.

Mr. Guridy asked if they will vote on the amendment at all or is it on the whole bill.

Mr. D'Amore stated that there were no objections to the amendment and if he would like a roll call vote they can do that.

Mr. Guridy stated no. He just wanted to clarify if this bill or vote would go with the issue with a caveat of putting the whole amount in the savings be spent in the life of the bond as opposed to spending it up front. He asked how they feel about that. He stated that somehow he feels that the money today is worth a lot more than money in the future.

The bill was amended by Common Consent.

Mr. Strathearn stated that he felt as though they should take it upfront. He stated listening to the committee and Mr. Donovan his approach is that they have far more important financial issues in the city and he is comfortable with it being spread out. He stated that initially they were talking about doing it, but it is fine. He stated that he does not want to get into a long discussion about it.

Mr. Guridy asked Mr. Donovan if that money will be used to pay down the debt.

Mr. Donovan stated that it is the equivalent funds based on the interest rates. A dollar in the future is not worth a dollar today. It is actually more dollars in the future discounted today. He stated that it is a couple of reasons why you want to take it up front. If we are saving a percentage of interest rates each year if you could put money into an account and earn more than that it would be a reason to take it up front, but you are not

allowed to do that. Second, you can buy extra equipment which is a one-time thing so you are not lock into reducing the general budget for one year and having to find the money the next year. He stated that the whole reason to bond is to say let's build this bridge and it would be the responsibility of the citizens for the next 15 – 20 years to pay for that. Why should we take those savings now? If there is an opportunity for savings let's spend those savings out for other citizens in the future rather than us saying we will grab those savings now and you guys can worry about that in the future.

Mr. Guridy stated that they do that everyday.

Mr. D'Amore stated that was a good discussion and varying opinions about it. He stated to Mr. Guridy that he is glad he asked the question. He asked were there any other questions or comments on the bill as amended.

Mr. Dennis Pearson stated that the Neighborhood Association has been aware of the need to renovate the east side fire house for many years and were concerned many times and about bridges being out of order so that they can have the proper staffing and vehicles and were concerned about summer vacations and the east side firehouse has not always staffed. He stated that they have been informed whenever that happened. We agree that the eastside firehouse should be renovated and is concerned about response time to our area. We know of mutual aid facilities which are second response. He stated that they talked to the Mayor of Bethlehem that has a second response mutual aid agreement. He is willing to allow for first response in certain cases especially in an old jurisdiction of Old Rittersville. They are letting council know that is possible. In the past they had mutual agreements with Hanover Township Lehigh and when Allentown's fire engine went to the airport the agreement included Hanover Township coming to our area of town when our engines went out of the east side. One suggestion has come up even if it is first response aid from Bethlehem. The Allentown Housing Authorities Central Park is a source of many trips by our fire company. Is it possible to save to by staffing firemen there with a fire extinguisher to cut down on response time for the cooking fires?

Mr. D'Amore stated that he has spoken to Chief Scheirer since the fire station closed and he is working and he is very interested that they find a temporary facility to house Engine 13 until the station is rebuilt.

Mr. Pearson stated that one of the members suggested to them putting temporary engines on Hanover Avenue and by Kiowa and someone said that the fire engine should be kept at Irving, but the firemen should enjoy the hospitality of your house.

Mr. D'Amore stated that his basement is a little small, but Mr. Stribula knows that he and other members of the firefighting crew are always welcomed there if they need to. He asked are there any other questions from the public and this is about a bond issue.

Ordinance Passed, 6 – 0

Mr. D'Amore stated that Chief Scheirer, Mr. Young, Mr. Strathearn, Mr. Bennington and the Mayor have all given the commitment that the process for this project is going to be moved as quickly as possibly can and they can all appreciate that.

11. ORDINANCES FOR INTRODUCTION:

Bill 68 Weed Seed Contribution

Referred to CEDC

Amending the 2011 General Fund Budget to provide for a supplemental appropriation of Three Hundred (\$300.00) Dollars for the Allentown Boxing Gym to allocate a contribution from City Councilwoman Jeanette Eichenwald.

Mr. D'Amore thanked Ms. Eichenwald

12. CONSENT AGENDA: None

13. RESOLUTIONS ON SECOND READING:

R52 Vacancies

Amending Council Rules by adding a section on Filling Vacancies in Council, Controller and Mayor's Office

Mr. D'Amore stated that this was forwarded by the Rules committee immediately without discussion and without recommendation because they felt it was going to be a relatively short meeting and they can as a full council sit here and discuss the matter that will obviously going to impact all of city council. He stated that he will begin the discussion with any of his colleague that wish to start.

Ms. Eichenwald stated that she has several minor changes.

Mr. D'Amore stated to Ms. Eichenwald if she wants to propose an amendment it is appropriate to do.

Ms. Eichenwald asked for a discussion and stated that in the paragraph that starts with Vacancies shall be filled it says a two or three page statement. She stated that to her it sounds too school-ish. She thinks that responsible people that want to be members of city council if they want to write it in one page, they should have that option. She stated that the other thing that concerns her is seven days after the vacancy someone can be out of town. She stated that she is not sure about the seven days. She thinks they may have people calling up with legitimate reasons to guard against it why don't they be proactive and extent that a little bit. She stated that her major one even though she does not have an objection to the outline. She asked about the nomination process, if someone submits an application and it is reviewed and it is a responsible person and they are a citizen of Allentown they pay their taxes and have no criminal record as a citizen of Allentown they deserve a hearing and once you do it by nomination there is too much politics that enters into it. There could be a candidate out there that has not been on the radar screen and any of us who will be making this decision that may prove to be the best candidate. She stated for more transparency and more democracy that anyone that meets those requirements should be given the opportunity to appears before council and answer questions. She finds it cumbersome and will take several votes so she would suggest the way it is done at the Allentown School Board. Each member is given a certain number of dots and the Allentown City Council and the official paper says it would be three, but the way it actually worked they were given a number of dots based on a number of people making a decision. In our case she assumes it will be six.

Mr. D'Amore asked Ms. Eichenwald is it the number of candidates or the number of people making the decision. He stated that he misunderstood Ms. Eichenwald when she explained it the first time.

Ms. Eichenwald stated that you are given six dots and have a board with every petitioner on it and you can put your six dots on one or two dots however you want to do it and at the end of the first ballot you will have a winner.

Mr. D'Amore stated maybe.

Ms. Eichenwald stated that it is much more likely. Truthfully with three it is possible that you will have a lot of ties and you have to do it over and over again. She stated that she feels much more stronger on the three things she did. She thinks the way that Allentown School Board does it is more conducive to a cleaner system.

Mr. D'Amore thanked Ms. Eichenwald. He stated that Ms. Eichenwald brought up a number of issue, but no formal amendment. He stated that they are basically still at the decision phase. He stated that he has a

speakers list and they will keep going and he will keep notes on issues that are raised. He stated that it is good to get everything out first.

Mr. Donovan stated that he would agree with Ms. Eichenwald that it could consist of a resume and a statement that might be sufficient. In an earlier discussion you did not want a tune or you did not want a novel. The numbers two or three is good. The seven day is forced by the thirty days that is mentioned by the Charter. He asked Mr. Hanlon is that thirty you can go beyond thirty days if council is into good faith going over and reviewing. Is that something a citizen can petition to go to a judge? What exactly happens?

Mr. D'Amore stated that after thirty days the vacancy can be filled by County Court of Common Pleas. It most likely would be the presiding judge he would assume. After a petition by two members of council or ten member of the public, his sense would be that is such a low threshold. A petition will very rapidly go to the court of common pleas. He stated that he will venture to say that the court if council were showing that they were moving forward that court will likely defer to council if council can make the definitive statement.

Mr. Donovan stated that he respects Ms. Eichenwald's point two weeks is probably better and a month will be too long.

Ms. Eichenwald stated that Mr. D'Amore will resign when he wins the election, but when you think about someone that is ill or passes away it is not conceivable that someone organizes themselves in this short period of time.

Mr. Donovan stated that he likes the fact of interviewing everyone. He stated that he respects that. If they have twenty candidates, they have to make the time to interview twenty people. If his colleagues are in favor instead of nominations simply saying people who apply and seems with good faith given a resume statement he can be in favor of that. He stated that on the voting side, he has one goal and that goal is while the results are public showing who voted for whom he feels strongly that the votes should be in secret and then announced by whom voted for whom. The dot framework he has been familiar with for a long time in a variety of scenarios and you watch people watch where the other dots are and he does not like that. He stated that he they have rankings and all twenty are ranked that is cumbersome in the way in which the language currently says. I would prefer you give your first, second and third choice and that way you will have a couple of rounds of voting. He stated that wants everyone to write down who they want and it goes to the president and the president and the majority wins. He stated that Ms. Eichenwald is right on the statement and if they can extend it to fourteen days that would be good. He would like for everyone to be interviewed and with the voting he would like to do a rank voting with first, second or third choice no matter how many candidates they are.

Mr. Schlossberg stated that he agrees with Ms. Eichenwald and Mr. Donovan about the statement of the thirteen days and about interviewing all of the candidates if they do apply. That could get cumbersome. If somebody expressing to come up here at least we owe them is our time. He clarified what Mr. Donovan stated and said that he would like that everybody votes or hands their votes to the clerk or to the president and the president announces the vote after everybody already cast their ballots.

Mr. Donovan stated yes and who voted for whom.

Mr. Schlossberg stated that he completely agrees with Mr. Donovan's suggestion on that. That makes total logical sense and the least cumbersome way of doing it. In an event there is a tie there is language in this resolution.

Mr. D'Amore stated this system with instant decision run-off voting there is no time. There has to be a resolution which is why he proposed it.

Mr. Schlossberg stated that he would like to add the caveat that in the event of a tie that is unbreakable presumably multiple rounds of voting the appointment would be made by the present judge of the Lehigh County Court of Common Please.

Mr. Guridy stated that he agrees with everything that was said so far in regards to the fourteen days instead of the seven days. He believes that everyone should be interviewed. The application should be reviewed by the president or acting president of council. He stated that everybody on council should be able to look at the application. He stated that he does not have a problem in voting in public as long as the clerk reads the names or the people who voted for whom. He stated that the clerk should do it. He stated that he has a fundamental issue with sending it to the county clerk. He stated that this is his problem; the county clerk is a process that they have no control over. He stated that any person who is a mayor regardless if we agree with them or not, they have genuine care for the city. They live in the city and want to make sure that the city is well protected and closure to us. He stated that he does not know half the judges in Lehigh County. It removes it from the city and then we have no inkling of when they will make a decision.

Ms. Eichenwald stated that it is only to say they are citizens.

Mr. Schlossberg stated and members of the same party.

Mr. O'Connell stated that his question is would the judge have to pick one of the candidates. We can have a nice list of candidates and cannot decide and we give those ten names to the judge and he can say no and pick his/her own.

Mr. D'Amore stated no. There will be no list of candidates to be forwarded to the courts. The court is the default. The court is empowered by the Charter to act if council does not act. I suppose Council could theoretically say this is un-resolvable we are throwing up our hands and send it to the courts if they choose to do that. The court acts when council fails to act. He stated that even if Council is part-way through the process that process is not a process that the courts would be mandated to follow through with it. He stated to Ms. Eichenwald that he is hearing that there could be three proposed amendments in which there is no objection. If Ms. Eichenwald is ok with this, she can make the motion or he will make the motion to the two/three page statement or the fourteen days or interviews be granted to all eligible applicants.

Ms. Eichenwald made the motion.

Mr. Guridy seconded the motion.

Mr. Hanlon stated that they are changes the two/three page statement to just a statement. They are changing the seven days to fourteen days and will interview all eligible applicants.

Mr. Donovan stated add striking the language having to do with the nominations.

Mr. D'Amore stated that they still have to add back that language somehow.

Ms. Eichenwald stated that they could say that Council will have a public meeting to review resumes and statements of the applicants. All the applicants should be interviewed in a public meeting.

Mr. Donovan stated that they should get that before they move on.

Mr. D'Amore stated that the first sentence in the last paragraph ends with statement of applicants. The next sentence starts with at this time or at a future public meeting Council shall interview all eligible candidates.

Ms. Eichenwald asked if Mr. D'Amore was he changing the language from applicants to candidates.

Mr. D'Amore stated applicants. Council should nominate all eligible applicants.

Mr. Gurdy stated interview.

Mr. D'Amore yes, interview. Council shall interview all eligible applicants.

Ms. Eichenwald stated that they have to strike the rest of it.

Mr. D'Amore stated that they have to reconstruct that nomination process, but that could be a part of the discussion as we move along. We will strike the last two sentences in that paragraph and replace it with the one you have.

Ms. Eichenwald stated that the truth of the matter is that council already has it here. Council should interview the selected candidate. We will have to work with that language. You want to start with after the interviews.

Mr. D'Amore stated that they will eliminate the first sentence of the third paragraph. He asked Mr. Hanlon if he is getting all of this. He asked Ms. Fruhwirth if they were still in order and they are appropriate proposals.

Ms. Fruhwirth stated that the solicitor's officer was not asked to do an analysis of the proposed legislation. In a cursory review of it, they do have some concerns. Perhaps with regards to the amendments she is not certain what the wish of council is in acting on it this very night given that the elections are coming up in November and things in that nature in perhaps they can if council dispose to do so go through the various amendments that they might propose and have Mr. Hanlon have an opportunity to get it in a clean way and the solicitor's office can make an opinion if they would like it and bring it back the next time for consideration.

Mr. D'Amore asked if they could introduce it and vote on it in the same night. He stated that is wise.

Mr. Schlossberg asked Ms. Fruhwirth what is the nature of her concerns.

Ms. Fruhwirth stated that she has two. Just the preliminary looking at this the concern is the last paragraph and she knows this will come up for discussion next, but the Charter says that the vacancy shall be filled by a majority vote of the remaining members and the concerns they need to look in to whether a weighted vote unless your discussion would take you in a difference direction. She stated that reading it in the first blush whether a weighted vote or how they want to do this constitutes a majority of the remaining members. She stated that might be something to consider. She stated that she appreciates Mr. Donovan and all their comments in terms of writing down the names of the people and then handing them to the City Clerk to read that who voted for whom in a public way whether that is a secret ballot, but is revealed later. Whether there are any implications with the Sunshine Law in that. She stated that they do not want the process that they have for the new vacancy and for those that might come down in the later years be foresighted about this to have any type of disgruntled challenger or someone in any year question whether it is a Charter violation that they might see now or the Sunshine Law violation or any other challenge that they might take. The solicitor's office would like to have the opportunity to do that and it might forestall any challengers you may have.

Mr. D'Amore stated that is wise and everyone has some questions.

Ms. Eichenwald stated that she is not pushing her dot story, but for the sake of discussion is that more inline with the Charter being that everybody does that in open.

Ms. Fruhwirth stated that if it is done in open that is more of the Sunshine Law aspect to this. That is a mixed question. If you are given a weighted vote and the way you describe it and stated that she is not familiar with the school district's method of doing things if you have so many of your dots and you could put three in one and one in another. The vote seems to be a weighted vote and whether or not it could be used as an establishment of majority.

Ms. Eichenwald asked if both of these proposals will have difficulty with the weighted vote issue.

Ms. Fruhwirth stated as they see it preliminarily.

Ms. Eichenwald asked if any kind of ranking could be in violation or would be a weighted.

Ms. Fruhwirth stated that she hesitate to say that definitively tonight that is. She stated that it is suspect the way she is reading a piece of legislation that is going through iterations.

Ms. Eichenwald stated that it seems to her that they cannot continue the discussion until they have an opinion.

Mr. D'Amore stated that they can discuss it from their prospective. He stated that here is the problem, if they have time to go back redo the resolution and bring it forward after they all had their input and pass it, but if they wait and get an opinion and they come back and they work it some more and they come back again there is going to be a point in time where the vacancy will be there and they do not have a procedure and he thinks that is something that he does not want to do is step of this dais without a procedure for filling a vacancy.

Ms. Eichenwald suggested that they go back and take care of the other three issues because there are no solicitor's issues with those.

Mr. D'Amore stated that they have unanimity issues and two members of council wants to respond to the solicitor and they still have a list speaking on the bill.

Mr. Donovan stated that he respects the Sunshine Law and if the law says they cannot do secret ballots then they can't. He stated that he would go on record stating that it allows for gaming in terms of who votes first. He stated that if they end up raising their hands if you call a vote rather than a roll call then again he does not know what the law is about raising hands or roll call. What he originally wanted was a slip of paper and he would write his name and vote who he wants. Even if you do ranking it is whoever has the majority of votes.

Mr. Guridy stated that he understands the concerns and Ms. Fruhwirth solidified what he was thinking if they are elected to vote in public and he does not have a problem with voting in public. He stated that they are going to vote for whoever they want to regardless. It is going to be announced anyway so why complicate the issue. Let just vote in public. He stated that if he likes Hanlon, that is who he is going to vote for regardless of what anybody says. He stated that going through this process makes him think that there is something behind the reason why people go through this process. It is what it is so he will go along with it. He stated that somebody is concocting something and something is going in there. He stated that it makes him feel weird about it.

Mr. Hanlon stated by allowing someone to write in names down and turn it over and this always happens people would say to him Hanlon I want to vote first.

Mr. D'Amore stated that a number of them on the dais has complained about it rightfully so with regards to the elections of the president and vice president. He thinks it a reasonable thing to raise and a reasonable thing to study and reasonable to say vote publicly. He stated that what they need to do is address these issues and get a consensus amongst council and let's find out if it conforms with the Charter and the Sunshine Law let's

find out and if it doesn't let's also find out. He stated for the purposes of their discussions and they will continue their discussion unless someone wants to stop it we are going to eliminate two to three pages and move seventeen to fourteen days and we will interview all eligible applicants. He stated that those things are settled and there is no dispute about that among members of council. We will still have members of the public speak on this matter.

Mr. Schlossberg stated that the discussion about the mayor or Lehigh County Court of Common Pleas would be involved in this in case of a tie breaker. He stated that it has nothing to do with the current administration; it is more of a systemic conversation. He stated that if there was a vacancy on the state legislature or in congress there are no circumstances where the President or governor would have the ability to appoint a legislator or congressman. The reason is very simple. There are frequently times where the legislative branch and the executive branch by nature are going to conflict and it would be inappropriate for the executive to stack the legislature in his or her favor. He stated that he has very deep concerns with the possibility for any mayor to stack the legislative branch in his or her favor.

Mr. D'Amore stated that they have a general consensus. He stated that they cannot have a tie and that is what they would have with instant run-off voting. He stated that they do not have to worry about who breaks ties. That eliminates that last uncomfortable conversation. He asked was there anything else that needs to be covered.

Ms. Fruhwirth stated to Mr. D'Amore that in the risk of being redundant she wanted to make sure they have the process so when they are doing their legal review they know what council is anticipating doing. With the amendments that they have as far as the seven days, the three pages those are fine and those are good. You will have applicants submit an application, you will have an interview with every applicant who is eligible and then you will rank everyone that is an eligible applicant. You will have a vote and everyone will rank their entire list and once obtain and there is one name that the majority of you is your number one choice and the voting stops there. The idea of doing the ranking is on a private piece of paper with the Clerk reading each time you do not have a majority you go to the next.

Mr. D'Amore stated that you have to eliminate the lowest candidate in every round and that's the way you get to the majority. He stated that the wording might be a little tedious and he could actually go to the city of San Francisco and find out how they work it because they use instant run-off voting. He stated that he is sure they have it worded very carefully. He stated to Ms. Fruhwirth that she could give to Mr. Marchetto a great link to instant run-off voting that gives an example with Muppets. He asked were there any other matters they have not come to a consensus on.

Ms. Eichenwald stated that the reason they want to do this so badly is because if you do it the other way and everyone says who they are going to vote for a lot of the outcome would come based on who votes first. She stated that if she is the fifth one that votes and there are already four who voted one way then who cares how I vote. It gives enormous power to the first person. That really is not fair.

Mr. Schlossberg stated that it depends.

Mr. Donovan stated that he recognizes the Sunshine Law and has been pushing for this. You still have to tell people how you are voting, but you do not get into that order.

Mr. D'Amore asked was it anything else that they do not have a consensus on. He asked was it any comments to the public. He asked was it any New Business.

14. RESOLUTIONS ON FIRST READING: None

15. NEW BUSINESS

None

16. GOOD AND WELFARE

Mr. Donovan stated that as he was turning off the computer he sees that Mr. Steve Jobs died today. He stated that his man was a revolutionary and someone he followed for thirty years now and ever since he has been into computers. He was quite an individual and someone he would have loved to have met. He put up a long fight. He stated on another side of bad news the Phillies lost.

Mr. O'Connell stated that there is Game 5 in Philadelphia.

Mr. Atiyeh stated that tomorrow at 6:30 PM at the Senior Center, they are having a Candidate's night for the President's Council. He stated that all candidates are invited from the city, school district and the county. He stated that they are all welcome to attend. He stated that he is concerned about the arena. He stated that they have a time limit, but he has heard that the legislation has not been approved yet. He asked is that correct. It has not been adopted.

Mr. D'Amore stated that it is approved. It was approved last year and the amendments were approved this year. Any rumor to the contrary is not correct. He stated that it has come a point for him to decide how he wants to exit City Council and have decided at this point since they are going into a Budget season to be honest and frank with everyone he has not been as hands on as he has in the last four years and it is time for him to take a step back and step back from the presidency by the next meeting Mr. Schweyer will assume that role and the official date will be October 14th because that is the end of the pay period. He stated that he is going to wait until they officially give him the honor of voting for him on General Election day, but then after that he will announce his resignation and he talked to Mr. Schneider about this. He stated that he can remain on Council during budget process and the initial phases of filling vacancy, but he has to leave his Council seat before the vacancy can be filled which is effectively Mr. Schneider's interpretation of the Charter. He stated that Council can begin the process as soon as he announces the formal resignation. He will step back and not participate in that process. He stated that he would like to participate in the budget process because it is unfair for all of them having six people here during budget time. He stated that it would be unfair for any new member of City Council to put them in a seat and say the first thing we want you to do is vote on this budget, especially if you do not know how the budget process works. It's very intimidating. This is all very difficult and it has been a great pleasure to serve the Council for the last four years and when he took the evening in question he replayed it in his mind and never did he think he was going to be here four years later and thanked them for allowing him to do it. He wished Mr. Schweyer luck and thanked Mr. Bennington to making it easy to communicate.

17. ADJOURNED 9:13 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, or contact the Clerk at hanlon@allentowncity.org to receive an email notice of the meetings.