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**MEMORANDUM**

**CITY OF BETHLEHEM**

TO: MEG HOLLAND, CITY CONTROLLER

FROM: CHRISTOPHER T. SPADONI, ESQ.

RE: CASINO HOST FEE - TREASURER'S ESCROW ACCOUNT

DATE: FEBRUARY , 2010

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I was previously requested by Council Member Jean Belinski for review of the Casino Host Fee / Treasurer's Escrow Account.

Enclosed is my January 15, 2010 memorandum to Council.

I additionally enclose a copy of January 26, 2010 Inter-Office Memorandum of President Donchez.

Please accept this correspondence as communication by the undersigned as City Council Solicitor that the City Administration did not notify or otherwise inform Council of the monies referenced for the Casino Host Fee or Treasurer's Escrow Account nor sought the required approval of Bethlehem City Council. The City Administration violated Sections 121.08 (c) and 121.08 (d).

It is my understanding that this memorandum with enclosures fully advises you as City Controller as to the City Administration's non-compliance.

Should questions arise or further information be required, please do not hesitate to contact the undersigned.

Thank you.

Very truly yours,

Christopher T. Spadoni

CTS:cm

Enclosure

cc: Honorable Robert J. Donchez, President of City Council (w/enc.)  
Cindy Biedenkopf, City Clerk (w/enc.)  
John F. Spirk, Jr., Esq., City Solicitor (w/enc.)  
Honorable John Callahan, Mayor (w/enc.)  
Dennis Reichard, Business Administrator (w/enc.)

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**CITY OF BETHLEHEM**

**Inter-Office Memorandum**

**SUBJECT:** Casino Host Fee-Treasurer's Escrow Account  
Request of Council Member Jean Belinski

**TO:** Christopher T. Spadoni, City Council Solicitor

**FROM:** Robert J. Donchez, President of Council

**DATE:** January 26, 2010

The compilation of the options listed in your January 15, 2010 memorandum as favored by the Members of Council are as follows:

Option 2. Notify the Honorable Meg Holland, City Controller, as to the lack of notice by the City Administration and their non-compliance with Sections 121.08 (c) and (d).

Option 3. Adopt a Resolution setting forth the lack of notice as statutorily required with the caveat that further violations will result in remedial action by City Council.

Options 2 and 3

5 Members of Council Favor

Option 4. Adopt a Resolution that City Council receive periodic statements/communications from the Administration as to the receipts and expenditures of these funds and the Administration's strict compliance with Sections 121.08 (c) and (d).

Option 5. Notify the auditors of the City of Bethlehem and request review via the next Audit.

Options 4 and 5

3 Members of Council Favor

It is anticipated that a Resolution in conjunction with Option 3 would be listed on the February 16, 2010 City Council Agenda. Please draft the Resolution by Tuesday, February 9, 2010 so that it can be circulated to the Members of Council for review. Please specify the remedial action that can be taken by City Council.

**SUBJECT:** Casino Host Fee-Treasurer's Escrow Account  
Request of Council Member Jean Belinski

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Concerning Option 2, please draft a memorandum to Meg Holland, City Controller, by Tuesday, February 9, 2010 so that it can be circulated to the Members of Council for review.

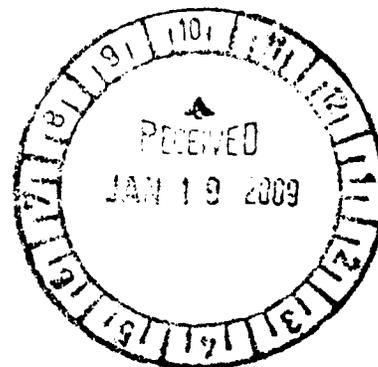
Since 3 Members of Council favor Options 4 and 5, at the February 16, 2010 City Council Meeting under Old Business I plan to ask Members of Council if they would like to discuss these Options.

Thank you.



Robert J. Donchez, President of Council

cc: Members of Council  
Mayor Callahan  
D. Reichard  
J. Spirk  
J. Kelly  
M. Holland  
K. Farber  
M. Sivak  
L. Lazarchak

**MEMORANDUM****CITY OF BETHLEHEM**

FROM: CHRISTOPHER T. SPADONI, ESQ.

RE: REQUEST OF COUNCILWOMAN JEAN BELINSKI  
CASINO HOST FEES / TREASURER'S ESCROW ACCOUNT

DATE: JANUARY 15, 2010

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Councilwoman Belinski requested the undersigned to review fund transfers above captioned and set forth Council's alternatives.

**STATUTORY AUTHORITY:**

Section 121.08 - Restriction on Fund Transfers; City Council Approval Required at Paragraphs (c) and (d) state:

(c) No transfers of funds from the Treasurer's Escrow Account shall be made to the General Fund Operating Budget or to the Water Fund Operating Budget or to the Sewer Fund Operating Budget without prior notice to and approval of City Council (Ord. 4425. Passed 5/1/07).

(d) Gaming Local Share Account. Any and all monies received under and pursuant to the Pennsylvania Race Horse development and Gaming Act (Act 2004-71) as amended, 4 Pa.C.S.A. §1401, et seq., shall be deposited in a separate account entitled the "Gaming Local Share Account". No transfers of unappropriated funds shall be made from the Gaming Local Share Account without prior notice to and approval of City Council. (Ord. 2008-24. Passed 9/2/08) (Emphasis supplied).

**FACTUAL BACKGROUND:****CASINO HOST FEES**

The Casino Host Fees were budgeted by the City in 2009 at \$1,295,000.00. Attached is print-out indicating the budgeted amount for the Host Fee and the dates the Host Fee Revenue was received. An amount of \$335,643.10 was the "excess amount".

Attached is Medical Invoice of October 22, 2009 (Dennis W. Reichard, Business Administrator forwarded this to Councilman Leeson via memorandum dated December 8, 2009) advising that the \$335,643.10 of the excess Host Fee was utilized for the City's October medical expense.

The Administration noted that the additional \$335,643.10 was received beyond what was budgeted, distribution was made by the Administration, and there was neither notice nor approval by Bethlehem City Council as required by §121.08(d).

**TREASURER'S ESCROW ACCOUNT:**

The following transfer of funds occurred from the Treasurer's Escrow Account:

July 23, 2009 - \$1,000,000.00

August 19, 2009 - \$800,000.00

October 26, 2009 - \$2,000,000.00

Attached is documentation as to the City expenses paid from the Treasurer's Escrow Account and this was referenced by Business Administrator Reichard in his December 8, 2009 memorandum to Councilman Leeson.

Again, there was neither notice nor approval by Bethlehem City Council as required by §121.08(c).

My review reveals these funds were utilized for City expense.

The alternatives of City Council are as follows:

1. Accept the explanation as set forth in the attached December 8, 2009 Memorandum of Business Administrator Reichard to Councilman Leeson; i.e. do nothing.

2. Notify the Honorable Meg Holland, City Controller, as to the lack of notice by the City Administration and their non-compliance with Section 121.08(c) and (d).

3. Adopt a Resolution setting forth the lack of notice as statutorily required with the caveat that further violations will result in remedial action by City Council.

4. Adopt a Resolution that City Council receive periodic statements / communications from the Administration as to the receipts and expenditures of these funds and the Administration's strict compliance with §121.08(c) and (d).

5. Notify the auditors of the City of Bethlehem and request review via the next Audit.

6. Require the replacement of these funds due to the notice provisions of §121.08(c) and (d). It should be specifically noted that this is not the advice of the undersigned, however, should be noted as a "possible alternative". It is clear from my review that the funds were received, utilized

for City expenses, and did not comply with §121.08(c) and (d) as there was a lack of notice and approval by Bethlehem City Council.

7. City Council adopt a resolution of concern / reprimand / censure. I would reiterate my advice of Paragraph 6.

Respectfully submitted,

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Phone: 610-867-3938; Fax: 610-625-4788

cc: Members of Council

Mayor

D. Reichard

J. Kelly