

BETHLEHEM CITY COUNCIL SPECIAL MEETING
10 East Church Street – Town Hall
Bethlehem, Pennsylvania
Friday, July 1, 2011 – 5:00 PM

1. INVOCATION
2. PLEDGE TO THE FLAG
3. ROLL CALL

President Robert J. Donchez called the Special City Council Meeting to order. Reverend Gordon Mowrer offered the invocation which was followed by the pledge to the flag. Present were Jean Belinski, David T. DiGiacinto, Karen Dolan, Eric R. Evans, Gordon B. Mowrer, J. William Reynolds, and Robert J. Donchez, 7.

Purpose of Special City Council Meeting – Re-Vote on Ordinance 2011-13 (Bill No. 12 – 2011) – Human Relations Commission

President Donchez stated that City Council must re-vote on Ordinance No. 2011-13, that was Bill No. 12 – 2011 considered on Final Reading at the June 21, 2011 City Council Meeting, due to a procedural error. The procedural oversight was that the motion to Reconsider the vote on Amendment 19 A was not voted on. The motion was made and seconded but there was no vote on the motion.

The Ordinance up to the point of the motion to Reconsider is what passed, because the motion to Reconsider was not voted on. Technically, all the other motions that followed were invalid.

At the June 21, 2011 Council Meeting, Amendments 12, 13, and 14 that had been Tabled at the June 7, 2011 Council Meeting were taken off the Table and Failed.

President Donchez continued on to state that City Council needs to re-vote on the following:

1. Motion to Reconsider the Vote on Amendment 19 A (Vote on Motion to Reconsider)
2. Amendment 19 A - Deletes Expanded Procedures from Section 145.06
3. Amendment 19 - Includes Expanded Procedures in Section 145.06 and makes other changes and language additions
4. Amendment 20 - Changes the Religious Exemption Language
5. Amendment 21 – Editorial Amendment that changes only the Title of Section 145.09
6. Ordinance 2011-13, as Amended.

President Donchez noted that City Council Members are not bounded by their prior votes made at the June 21, 2011 City Council Meeting, and may offer Amendments.

4. COURTESY OF THE FLOOR (for public comment on Ordinance to be voted on by Council – 5 Minute Time Limit)

Ordinance No. 2011-13 (Bill No. 12 – 2011) – Establishing Article 145 – Bethlehem Human Relations Commission

Adrian Shanker, 1020 West Chew Street, Allentown, thanked the Members of Council for their diligence in this matter and taking the time to fix what occurred at the June 21, 2011 City Council Meeting concerning this legislation. Communicating this will ensure that what happens in Bethlehem will not be overturned by any court on the basis of only a technicality, Mr. Shanker informed the assembly this is what happened with the Pennsylvania hate crimes law a few years ago. Mr. Shanker said that was a devastating blow to the gay, lesbian, bisexual and transgender community when the Pennsylvania Supreme Court struck down the law that passed with overwhelming support in Harrisburg on the sole basis that it was tacked on to another piece of legislation that was unrelated. Mr. Shanker advised now there are not the votes in Harrisburg to

pass another hate crimes law. Mr. Shanker, commenting it would be a shame for that to happen in Bethlehem, said that is why it is so important the City Council is voting on the Ordinance again. Mr. Shanker expressed the hope that the vote is the same as it was last week because it was clearly the intent of the Members of Council to pass a strong Ordinance to protect all people who live, work, visit, and invest in the City of Bethlehem from unfair discrimination based on who they are. Mr. Shanker pointed out that the Ordinance has wide, broad support from arts organizations, including South Side Film Festival and ArtsQuest, 13 labor unions, 40 businesses in Bethlehem, 25 religious leaders including the Jewish Federation of the Lehigh Valley, the Interfaith Alliance, Bishop of the Episcopal Diocese, and so on. Noting there is very little opposition, Mr. Shanker said it is only from the American Family Association that is listed as a hate group by the Southern Poverty Law Center, and the Catholic Diocese of Allentown that does not oppose the entire legislation but only one particular amendment. Mr. Shanker encouraged City Council's continued support, and thanked Council for their past support.

Gertrude Reit, 1321 Pennsylvania Avenue, explained her concern is mainly religious freedom. Ms. Reit commented that not all activities of a religious nature can be directly connected with a church, a synagogue, or mosque, and there is the matter of individual convictions. Communicating that she believes in the Bible and what it teaches, Ms. Reit expressed that Article 145 could be interpreted to say that certain behaviors that the Bible says is immoral will be protected. Ms. Reit expressed her agreement that everyone should be free of bullying, harassment, and violence, and added she is totally against such actions. Ms. Reit stressed there could be situations that would arise for an individual who had a business or a rental property regarding activity that she would object to. Ms. Reit commented she believes the Constitution would protect her right to not promote that activity which could be interpreted as being discriminatory under Article 145. Ms. Reit expressed the hope that City Council will think about these matters as they look at the religious exemption in the Ordinance, and as they try to make sure that all citizens are treated fairly.

5. COMMUNICATION

A. *City Council Solicitor - Re-Voting on Bill No. 12 - 2011 - Human Relations Commission*

The Clerk read a memorandum dated June 24, 2011 from Christopher Spadoni, City Council Solicitor, as follows: "I have reviewed the Rules of City Council and Roberts Rules of Order. I conclude that a "procedural error" occurred as a vote was not taken on the motion to reconsider. The vote on amendment 19a is "suspect". I have concluded that the integrity of City Council is of paramount importance and I am advising that City Council should "redo" this vote to assure correctness. It is my considered opinion that the action as it presently stands is defensible. I have, however, concluded that a re-vote is necessary to assure the integrity of City Council and the validity of its vote. It is my understanding that you are contacting City Council Members for a special City Council Meeting to revisit Bill No. 12-2011, Human Relations Commission. I trust that this correspondence being forwarded both via fax and regular mail is sufficient notice as to my advice for this matter to be voted upon by City Council. I have telephoned Sean Sanderson at 1-717-787-8169 of the Local Government Section and as of the dictation of this memo am awaiting his return telephone communication, but frankly the course of action set forth hereinabove is my firm advice."

9. ORDINANCE

A. *Ordinance No. 2011-13 (Bill No. 12 - 2011) - Establishing Article 145 - Bethlehem Human Relations Commission*

Amendment 19 A - Section 145.06 - Deleting Expanded Procedures

The Clerk read Amendment 19 A, sponsored by Mr. Evans and Mr. DiGiacinto, that deletes Expanded Procedures in Section 145.06 by deleting the first sentence in Paragraph D, and by deleting Paragraphs E and F, as follows:

1. That the title of Section 145.06 that reads as follows:

145.06 Procedures; Expanded Procedures.

Shall be amended to read as follows:

145.06 Procedures

2. That Paragraph D which reads as follows:

D. Disposition of the complaint. ~~Provided the Commission has not elected under Subsection E of this section to use expanded procedures, and~~ if the complaint is not resolved through the fact finding conference, the Commission shall, at the second Commission meeting following the fact finding conference, consider the findings prepared by the Commissioner who conducted the fact finding conference. The Commission shall accept or reject the findings by public vote. The Commission shall provide the parties with the findings of fact and conclusion, shall notify the parties of the outcome of the vote, and this notice shall also indicate that the person aggrieved has a right to pursue the matter in court by filing a lawsuit.

Shall be amended to read as follows:

D. If the complaint is not resolved through the fact finding conference, the Commission shall, at the second Commission meeting following the fact finding conference, consider the findings prepared by the Commissioner who conducted the fact finding conference. The Commission shall accept or reject the findings by public vote. The Commission shall provide the parties with the findings of fact and conclusion, shall notify the parties of the outcome of the vote, and this notice shall also indicate that the person aggrieved has a right to pursue the matter in court by filing a lawsuit.

3. That Paragraphs E and F which read as follows are hereby deleted:

E. Option of the Commission to elect for expanded procedures. The Commission shall have the authority to elect to adopt expanded procedures as set forth in Subsection F of this section subject to approval by City Council and appropriation of funding by City Council for such procedures. A majority of Commission members must vote in favor of adopting expanded procedures in order for such procedures to be adopted. In the event that such procedures are adopted, they must, while in effect, be applied to all complaints that are not resolved through a fact finding conference. If the Commission has adopted expanded procedures, it may also, by majority vote and in its sole discretion, eliminate such procedures.

F. Expanded procedures:

1. Dismissal or nondismissal of the complaint. If the fact finding conference was ~~not~~ successful in resolving the complaint, ~~and the Commission has adopted the Expanded Procedures set forth below, the Commission shall undertake~~ follow the procedures set ~~out~~ forth in Subsection ~~s 1 through 6~~ C 3 of this section.

1. 2. Investigation. The Commission shall, in a timely fashion, investigate the allegations of discrimination set forth in the complaint. The Commission may, in the conduct of such investigation, issue subpoenas to any person charged with an unlawful practice to furnish information, records or other documents, or to give sworn testimony, as necessary to assist in its investigation. The Commission may seek enforcement of its subpoena by Petition to the Court of Common Pleas of Northampton and/or Lehigh County as appropriate.

3. Finding of no cause. If it shall be determined after the Commission's investigation that there is no basis for the allegations of the complaint, the Commission shall cause to be issued and served upon the parties written notice of such determination. This notice shall inform the person aggrieved that he/she has the right to pursue the matter in court by filing a lawsuit.

4. Conciliation. If the Commission, after investigation, determines that probable cause exists for the allegations of the complaint, the Commission shall immediately endeavor to eliminate the unlawful practice complained of by persuasion, conference and conciliation.

5. Public hearing.

a. If the Commission, in its discretion, finds it is not possible to eliminate the unlawful practices by persuasion, conference or conciliation, the Commission shall cause to be issued and served a written notice, together with a copy of the complaint, which informs the respondent that the respondent must answer the charges of such complaint at a hearing before the Commission at a time and place to be specified in such notice.

b. The Commission may designate one or more of its members to preside at such a hearing or it may, at its election, conduct such hearing with a panel of either 2 or 3 Commissioners.

c. At the public hearing, the case in support of the complaint shall be presented to the Commission by pro bono counsel, ~~by Commission staff~~ or by the City Solicitor's office. The case in support of the complaint may instead be presented by the complainant's attorney, if the complainant is represented. Both the complainant and the respondent may appear at the hearing with or without counsel and provide testimony. In addition, both the complainant and the respondent may introduce the testimony of additional witnesses and may submit documentary evidence. The Commission and the parties shall not be bound by the strict rules of evidence at the hearing.

5 6. Findings. If upon all the evidence at the hearing the Commission shall find that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this chapter, the Commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such additional action as the Commission deems appropriate. The Commission shall have the authority to order any remedies available to the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.

6 7. Finding of No Discrimination. If upon all the evidence the Commission shall find that a respondent has not engaged in any unlawful discriminatory practice, the Commission shall state its findings of fact and shall issue and cause to be served on the parties an order dismissing the complaint as to such respondent.

President Donchez recounted that, at the June 21 Council Meeting, the vote on Amendment 19 A was as follows: Voting AYE: Mrs. Belinski, Mr. DiGiacinto, Mr. Evans, and Mr. Mowrer, 4. Voting NAY: Ms. Dolan, Mr. Reynolds, and Mr. Donchez, 3. Amendment 19 A passed. The result of the vote on Amendment 19 A was that Expanded Procedures was deleted from the Ordinance. After that vote at the June 21 Council Meeting that deleted Expanded Procedures, the motion to Reconsider the Vote on Amendment 19 A was made by Mr. Mowrer and Ms. Dolan.

Vote on Motion - Reconsidering Vote on Amendment 19 A

President Donchez, restating that the Clerk will call the roll on the motion to Reconsider the Vote on Amendment 19 A, affirmed this is the procedural oversight that was made at the June 21, 2011 City Council Meeting and is the reason for the Special Meeting today.

President Donchez asked the Clerk to call the Roll on the Motion to Reconsider the Vote on Amendment 19 A.

The Clerk called the Roll on the Motion to Reconsider the Vote on Amendment 19 A. Voting AYE: Mrs. Belinski, Ms. Dolan, Mr. Mowrer, Mr. Reynolds, and Mr. Donchez, 5. Voting NAY: Mr. DiGiacinto and Mr. Evans, 2. The motion passed.

Amendment 19 A - Section 145.06 - Deleting Expanded Procedures

President Donchez, affirming that the motion to Reconsider passes, said Amendment 19 A is again before the Members of Council. President Donchez denoted that, Amendment 19 A, as previously stated, deletes the Expanded Procedures in Section 145.06 by deleting the first sentence in Paragraph D, and by deleting Paragraphs E and F.

President Donchez informed the Members that a vote of AYE is to delete Expanded Procedures; and, a vote of NAY is to include Expanded Procedures in the Ordinance.

President Donchez asked the Clerk to call the Roll on Amendment 19 A.

The Clerk called the Roll on Amendment 19 A. Voting AYE: Mrs. Belinski, Mr. DiGiacinto.

Ms. Dolan, at this point, commented that a Member can change their vote, according to Roberts Rules.

Attorney Spadoni advised that, if during the vote, someone votes by mistake, misunderstanding, and so on, they can revote while the vote is going on, pursuant to Roberts Rules of Order.

In response to Mrs. Belinski, President Donchez repeated that, regarding Amendment 19 A, a vote of AYE is to delete Expanded Procedures; and, a vote of NAY is to include Expanded Procedures.

Voting AYE: Mr. DiGiacinto, and Mr. Evans, 2. Voting NAY: Mrs. Belinski, Ms. Dolan, Mr. Mowrer, Mr. Reynolds, and Mr. Donchez, 5. Amendment 19 A Failed.

Amendment 19 – Section 145.06 - Including Expanded Procedures

President Donchez denoted that Amendment 19 includes Expanded Procedures in Section 145.06. In paragraph e the words Human Relations Commission are added, in paragraph F the following language is added: Dismissal or nondismissal of the complaint, other wording changes, and a sentence is added to read as follows: The Commission may seek enforcement of its subpoena by Petition to the Court of Common Pleas of Northampton and/or Lehigh County as appropriate.

President Donchez stated that a vote of AYE is to include Expanded Procedures in the Ordinance; a vote of NAY is to delete Expanded Procedures.

Mr. DiGiacinto expressed the hope that everyone understands the meaning of Amendment 19 that includes Expanded Procedures in the Human Relations Commission Ordinance. Communicating that someone will win and someone will lose, Mr. DiGiacinto highlighted the fact that there is a legal system that people will go to after that. Mr. DiGiacinto, recalling that was seen in the hearings conducted before City Council in the matter of two Police Officers, noted it will be seen again if it reaches that point with the Expanded Procedures in the Human Relations Commission Ordinance.

Ms. Dolan, expressing her agreement, thought some governmental powers are being shared in new and different ways for the City of Bethlehem. Commenting that sometimes people have to be subpoenaed, the full force of law must be used, and sometimes people need to be punished, Ms. Dolan said government fines people. Continuing on to say if there is a law that states one cannot discriminate against people in business and housing, Ms. Dolan expressed her opinion that if someone has a Christian store they would not have to employ an openly gay couple, for example.

President Donchez asked the Clerk to read Amendment 19.

The Clerk read Amendment 19, sponsored by Ms. Dolan and Mr. Reynolds, as follows:

Amendment 19

That Section 145.06 that reads as follows:

145.06 Procedures; Expanded Procedures.

A. Filing a complaint.

1. Any person(s) claiming to be aggrieved by an unlawful practice may make, sign and file a verified complaint alleging violations of this chapter, which shall include the following information:
 - a. The name and address of the aggrieved person(s);
 - b. The name and address of the person(s) alleged to have committed the prohibited practice;
 - c. A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory practice;
 - d. If applicable, the address and a description of the dwelling unit which is involved; and

e. Such other information as may be required by the City.

2. Complaints may be filed in person at the City Clerk's office or by mailing such complaints to the City Clerk's office or to the Chairperson of the Human Relations Commission. All complaints must be received by the City Clerk's office or by the Human Relations Commission within 180 ~~90~~ days of the alleged act of discrimination to be considered timely.
3. The City Clerk's office shall convey all original complaints received by that office to the Chairperson of the Human Relations Commission within 10 days of the office's receipt of such complaints.

B. Notification and answer.

1. Within 30 days of its receipt of a complaint, the Human Relations Commission shall:

- a. Send a copy of the complaint to the person(s) charged with a discriminatory practice [the "respondent(s)"]; and
- b. Send a notice to the person(s) aggrieved, informing them that the complaint has been received. If the complaint alleges discrimination on a basis prescribed under federal or state law, the notice sent to the person(s) aggrieved shall also inform them of the right to file with the state Human Relations Commission and/or with the federal Equal Employment Opportunity Commission.

2. The respondent(s) shall file a written verified answer to the complaint within 60 days of receipt of the complaint. An answer to a complaint may be filed in the same manner as an original complaint. If the answer is filed with the City Clerk's office, it shall be conveyed by the City Clerk to the Chairperson of the Human Relations Commission within 10 days of the City Clerk's office's receipt thereof. The Commission shall promptly send a copy of the answer to the person(s) aggrieved.

C. Fact finding conference.

1. After the answer has been received, the Commission shall, within 60 days, invite the parties to voluntarily participate in a fact finding conference concerning the dispute. The parties shall respond to the invitation to participate in a fact finding conference within 30 days of being invited to participate.
2. If the parties agree to participate in a fact finding conference, the parties shall meet with a Commission member at a location mutually agreeable to the parties within 30 days of the agreement to participate. Each party will be invited at the fact finding conference to present evidence and documents relevant to the complaint. The fact finding conference will not be a public event, and no record of the conference will be created, excepting the findings of fact detailed in Subsection C.3 of this Section.
3. The parties shall notify the Commission of whether the fact finding conference resulted in a resolution of the complaint. In the event the complaint is resolved, the Commission shall notify the parties that the complaint has been dismissed. In the event the complaint is not resolved through the fact finding conference, then the Commissioner, within 30 days, shall prepare findings of fact and a conclusion as to whether the Commissioner finds probable cause that an unlawful practice has occurred.

D. Disposition of the complaint. Provided the Commission has not elected under Subsection E of this section to use expanded procedures, and if the complaint is not resolved through the fact finding conference, the Commission shall, at the second Commission meeting following the fact finding conference, consider the findings prepared by the Commissioner who conducted the fact finding conference. The Commission shall accept or reject the findings by public vote. The Commission shall provide the parties with the findings of fact and conclusion, shall notify the parties of the outcome of the vote, and this notice shall also indicate that the person aggrieved has a right to pursue the matter in court by filing a lawsuit.

E. Option of the Commission to elect for expanded procedures. The Commission shall have the authority to elect to adopt expanded procedures as set forth in Subsection F of this section subject to approval by City Council and appropriation of funding for such procedures. A majority of Commission members must vote in favor of adopting expanded procedures in order for such procedures to be adopted. In the event that such procedures are adopted, they must, while in effect, be applied to all complaints that are not resolved through a fact finding conference. If the Commission has adopted expanded procedures, it may also, by majority vote and in its sole discretion, eliminate such procedures.

F. If the fact finding conference was not successful in resolving the complaint and the Commission has adopted the Expanded Procedures set forth below, the Commission shall undertake the procedures set out in Subsections 1 through 6 of this section.

1. Investigation. The Commission shall, in a timely fashion, investigate the allegations of discrimination set forth in the complaint. The Commission may, in the conduct of such investigation, issue subpoenas to any person charged with an unlawful practice to furnish information, records or other documents, or to give sworn testimony, as necessary to assist in its investigation.
2. Finding of no cause. If it shall be determined after the Commission's investigation that there is no basis for the allegations of the complaint, the Commission shall cause to be issued and served upon the parties written notice of such determination. This notice shall inform the person aggrieved that he/she has the right to pursue the matter in court by filing a lawsuit.
3. Conciliation. If the Commission, after investigation, determines that probable cause exists for the allegations of the complaint, the Commission shall immediately endeavor to eliminate the unlawful practice complained of by persuasion, conference and conciliation.
4. Public hearing.
 - a. If the Commission, in its discretion, finds it is not possible to eliminate the unlawful practices by persuasion, conference or conciliation, the Commission shall cause to be issued and served a written notice, together with a copy of the complaint, which informs the respondent that the respondent must answer the charges of such complaint at a hearing before the Commission at a time and place to be specified in such notice.
 - b. The Commission may designate one or more of its members to preside at such a hearing or it may, at its election, conduct such hearing ~~en banc~~ **with a panel of either 2 or 3 Commissioners.**
 - c. At the public hearing, the case in support of the complaint shall be presented to the Commission by pro bono counsel, by Commission staff or by the City Solicitor's office. The case in support of the complaint may instead be presented by the complainant's attorney, if the complainant is represented. Both the complainant and the respondent may appear at the hearing with or without counsel and provide testimony. In addition, both the complainant and the respondent may introduce the testimony of additional witnesses and may submit documentary evidence. The Commission and the parties shall not be bound by the strict rules of evidence at the hearing.
5. Findings. If upon all the evidence at the hearing the Commission shall find that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this chapter, the Commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such additional action as the Commission deems appropriate. The Commission shall have the authority to order any remedies available to the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.
6. Finding of No Discrimination. If upon all the evidence the Commission shall find

that a respondent has not engaged in any unlawful discriminatory practice, the Commission shall state its findings of fact and shall issue and cause to be served on the parties an order dismissing the complaint as to such respondent.

Shall be amended to read as follows:

145.06 Procedures; Expanded Procedures.

A. Filing a complaint.

1. Any person(s) claiming to be aggrieved by an unlawful practice may make, sign and file a verified complaint alleging violations of this chapter, which shall include the following information:
 - a. The name and address of the aggrieved person(s);
 - b. The name and address of the person(s) alleged to have committed the prohibited practice;
 - c. A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory practice;
 - d. If applicable, the address and a description of the dwelling unit which is involved; and
 - e. Such other information as may be required by the City/**Human Relations Commission.**
2. Complaints may be filed in person at the City Clerk's office or by mailing such complaints to the City Clerk's office or to the Chairperson of the Human Relations Commission. All complaints must be received by the City Clerk's office or by the Human Relations Commission within 180 days of the alleged act of discrimination to be considered timely.
3. The City Clerk's office shall convey all original complaints received by that office to the Chairperson of the Human Relations Commission within 10 days of the office's receipt of such complaints.

B. Notification and answer.

1. Within 30 days of its receipt of a complaint, the Human Relations Commission shall:
 - a. Send a copy of the complaint to the person(s) charged with a discriminatory practice [the "respondent(s)"]; and
 - b. Send a notice to the person(s) aggrieved, informing them that the complaint has been received. If the complaint alleges discrimination on a basis prescribed under federal or state law, the notice sent to the person(s) aggrieved shall also inform them of the right to file with the state Human Relations Commission and/or with the federal Equal Employment Opportunity Commission.
2. The respondent(s) shall file a written verified answer to the complaint within 60 days of receipt of the complaint. An answer to a complaint may be filed in the same manner as an original complaint. If the answer is filed with the City Clerk's office, it shall be conveyed by the City Clerk to the Chairperson of the Human Relations Commission within 10 days of the City Clerk's office's receipt thereof. The Commission shall promptly send a copy of the answer to the person(s) aggrieved.

C. Fact finding conference.

1. After the answer has been received, the Commission shall, within 60 days, invite the parties to voluntarily participate in a fact finding conference concerning the dispute. The parties shall respond to the invitation to participate in a fact finding conference within 30 days of being invited to participate.

2. If the parties agree to participate in a fact finding conference, the parties shall meet with a Commission member at a location mutually agreeable to the parties within 30 days of the agreement to participate. Each party will be invited at the fact finding conference to present evidence and documents relevant to the complaint. The fact finding conference will not be a public event, and no record of the conference will be created, excepting the findings of fact detailed in Subsection C.3 of this Section.
3. The parties shall notify the Commission of whether the fact finding conference resulted in a resolution of the complaint. In the event the complaint is resolved, the Commission shall notify the parties that the complaint has been dismissed. In the event the complaint is not resolved through the fact finding conference, then the Commissioner, within 30 days, shall prepare findings of fact and a conclusion as to whether the Commissioner finds probable cause that an unlawful practice has occurred.

D. Disposition of the complaint. Provided the Commission has not elected under Subsection E of this section to use expanded procedures, and if the complaint is not resolved through the fact finding conference, the Commission shall, at the second Commission meeting following the fact finding conference, consider the findings prepared by the Commissioner who conducted the fact finding conference. The Commission shall accept or reject the findings by public vote. The Commission shall provide the parties with the findings of fact and conclusion, shall notify the parties of the outcome of the vote, and this notice shall also indicate that the person aggrieved has a right to pursue the matter in court by filing a lawsuit.

E. Option of the Commission to elect for expanded procedures. The Commission shall have the authority to elect to adopt expanded procedures as set forth in Subsection F of this section subject to approval by City Council and appropriation of funding by City Council for such procedures. A majority of Commission members must vote in favor of adopting expanded procedures in order for such procedures to be adopted. In the event that such procedures are adopted, they must, while in effect, be applied to all complaints that are not resolved through a fact finding conference. If the Commission has adopted expanded procedures, it may also, by majority vote and in its sole discretion, eliminate such procedures.

F. Expanded procedures:

1. Dismissal or nondismissal of the complaint. If the fact finding conference was ~~not~~ successful in resolving the complaint, ~~and the Commission has adopted the Expanded Procedures set forth below, the Commission shall undertake~~ **follow** the procedures set ~~out~~ **forth** in Subsection ~~s 1 through 6~~ **C 3** of this section.

2. Investigation. The Commission shall, in a timely fashion, investigate the allegations of discrimination set forth in the complaint. The Commission may, in the conduct of such investigation, issue subpoenas to any person charged with an unlawful practice to furnish information, records or other documents, or to give sworn testimony, as necessary to assist in its investigation. **The Commission may seek enforcement of its subpoena by Petition to the Court of Common Pleas of Northampton and/or Lehigh County as appropriate.**

3. Finding of no cause. If it shall be determined after the Commission's investigation that there is no basis for the allegations of the complaint, the Commission shall cause to be issued and served upon the parties written notice of such determination. This notice shall inform the person aggrieved that he/she has the right to pursue the matter in court by filing a lawsuit.

4. Conciliation. If the Commission, after investigation, determines that probable cause exists for the allegations of the complaint, the Commission shall immediately endeavor to eliminate the unlawful practice complained of by persuasion, conference and conciliation.

5. Public hearing.

a. If the Commission, in its discretion, finds it is not possible to eliminate the unlawful practices by persuasion, conference or conciliation, the Commission shall cause to be issued and served a written notice, together with a copy of the complaint, which informs the respondent that the respondent must answer the charges of such complaint at a hearing before the Commission at a time and place to be specified in such notice.

b. The Commission may designate one or more of its members to preside at such a hearing or it may, at its election, conduct such hearing with a panel of either 2 or 3 Commissioners.

c. At the public hearing, the case in support of the complaint shall be presented to the Commission by pro bono counsel, ~~by Commission staff~~ or by the City Solicitor's office. The case in support of the complaint may instead be presented by the complainant's attorney, if the complainant is represented. Both the complainant and the respondent may appear at the hearing with or without counsel and provide testimony. In addition, both the complainant and the respondent may introduce the testimony of additional witnesses and may submit documentary evidence. The Commission and the parties shall not be bound by the strict rules of evidence at the hearing.

56. Findings. If upon all the evidence at the hearing the Commission shall find that a respondent has engaged in or is engaging in any unlawful discriminatory practice as defined in this chapter, the Commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice and to take such additional action as the Commission deems appropriate. The Commission shall have the authority to order any remedies available to the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.

67. Finding of No Discrimination. If upon all the evidence the Commission shall find that a respondent has not engaged in any unlawful discriminatory practice, the Commission shall state its findings of fact and shall issue and cause to be served on the parties an order dismissing the complaint as to such respondent.

President Donchez repeated that a vote of AYE is to include Expanded Procedures, and a vote of NAY is to delete Expanded Procedures.

President Donchez asked the Clerk to call the Roll on Amendment 19.

The Clerk called the Roll on Amendment 19. Voting AYE: Ms. Dolan, Mr. Mowrer, Mr. Reynolds, and Mr. Donchez, 4. Voting NAY: Mrs. Belinski, Mr. DiGiacinto, Mr. Evans, 3. Amendment 19 passed.

Amendment 20

President Donchez noted that Amendment 20 amends Section 145.04, Exception, that is referred to as the religious exemption. The Amendment deletes the following words throughout the second paragraph: church, synagogue, mosque, temple or other house of religious worship, religion, or association of the foregoing, and any bona fide private or fraternal organization. The Amendment adds the following words throughout the second paragraph: religious organization, religious organization or denominations.

President Donchez asked the Clerk to read Amendment 20

The Clerk read Amendment 20, sponsored by Ms. Dolan and Mr. Reynolds, as follows:

That Section 145.04 that reads as follows:

145.04 Exception.

Notwithstanding any other provision of this chapter, it shall not be an unlawful employment practice for a religious corporation or association, not supported in whole or in part by governmental appropriations, to refuse to hire or employ an individual on the basis of religion.

Nothing in this chapter shall be interpreted to prohibit a church, synagogue, mosque, temple or other house of religious worship, religion, religious denomination, ~~or association of churches~~ or an association of the foregoing, and any bona fide private or fraternal organization that is exempt from Federal taxation under Section 501(c)(3) of the Internal Revenue Code, or any entity affiliated with that church, synagogue, mosque, temple or other house of religious worship, religion, religious denomination, ~~or association of churches~~ or an association of the foregoing, and any bona fide private or fraternal organization from engaging in any conduct or activity that is required by, or that implements or expresses its religious beliefs or tenets of faith. Nor shall anything in this chapter be interpreted to require any such church, synagogue, mosque,

~~temple or other house of religious worship, religion, religious denomination, or association of churches~~ **or an association of the foregoing, and any bona fide private or fraternal organization** or any entity affiliated with that church, **synagogue, mosque, temple or other house of religious worship, religion, religious denomination, or association of churches** **or an association of the foregoing, and any bona fide private or fraternal organization** to engage in any conduct or activity that is prohibited by its religious beliefs or tenets of faith. Nor shall any such church, **synagogue, mosque, temple or other house of religious worship, religion, religious denomination, or association of churches** **or an association of the foregoing, and any bona fide private or fraternal organization** be required to engage in any conduct or activity that would violate its religious beliefs or tenets, as a condition of entering into any contract with any agency of this City.

Shall be amended to read as follows:

Notwithstanding any other provision of this chapter, it shall not be an unlawful employment practice for a religious corporation or association, not supported in whole or in part by governmental appropriations, to refuse to hire or employ an individual on the basis of religion.

Nothing in this chapter shall be interpreted to prohibit a **religious organization**, religious denomination, or association of **religious organizations or denominations** that is exempt from Federal taxation under Section 501(c)(3) of the Internal Revenue Code, or any **organization** affiliated with that **religious organization**, religious denomination, or association of **religious organizations or denominations**, from engaging in any conduct or activity that is required by, or that implements or expresses its religious beliefs or tenets of faith. Nor shall anything in this chapter be interpreted to require any such **religious organization**, religious denomination, or association of **religious organizations or denominations**, or any **organization** affiliated with that **religious organization**, religious denomination, or association of **religious organizations or denominations** to engage in any conduct or activity that is prohibited by its religious beliefs or tenets of faith. Nor shall any such **religious organization**, religious denomination, or association of **religious organizations or denominations** be required to engage in any conduct or activity that would violate its religious beliefs or tenets, as a condition of entering into any contract with any agency of this City.

President Donchez stated that a vote of AYE is to amend the religious exemption to reflect the language in the State's religious exemption. A vote of NAY is to keep the present religious exemption language in the Ordinance.

President Donchez asked the Clerk to call the Roll on Amendment 20

The Clerk called the Roll on Amendment 20. Voting AYE: Mrs. Belinski, Ms. Dolan, Mr. Mowrer, and Mr. Reynolds, 4. Voting NAY: Mr. DiGiacinto, Mr. Evans, and Mr. Donchez, 3. Amendment 20 passed.

Amendment 21

President Donchez stated that Amendment 21 amends Section 145.09 by changing the Title from: Term of Ordinance and Review, to: Review of Ordinance.

President Donchez asked the Clerk to read Amendment 21

The Clerk read Amendment 21, sponsored by Mr. Evans and Mr. Mowrer as follows:

That Section 145.09 which reads as follows:

145.09 [Term of Ordinance and] Review

~~This Ordinance shall be in effect for three years from the date of its enactment. Ninety (90) days prior to the end of the three year term, a review shall be conducted by City Council retains the right to review the provisions of this Ordinance of the work of the Bethlehem Human Relations Commission and a determination shall be made concerning renewal or non-renewal of the Bethlehem Human Relations Commission.~~

Shall be amended to read as follows:

145.09 Term of Ordinance and Review of Ordinance

~~This Ordinance shall be in effect for three years from the date of its enactment. Ninety (90) days prior to the end of the three year term, a review shall be conducted by City Council retains the right to review the provisions of this Ordinance of the work of the Bethlehem Human Relations Commission and a determination shall be made concerning renewal or non-renewal of the Bethlehem Human Relations Commission.~~

President Donchez asked the Clerk to call the Roll on Amendment 21

The Clerk called the Roll on Amendment 21. Voting AYE: Mrs. Belinski, Ms. Dolan, Mr. DiGiacinto, Mr. Evans, Mr. Mowrer, and Mr. Reynolds, and Mr. Donchez, 7. Amendment 21 passed.

Ordinance No. 2011-13 (Bill No. 12 - 2011), as Amended

President Donchez asked the Clerk to call the Roll on Ordinance No. 2011-13 (Bill No. 12 - 2011), as Amended.

The Clerk read Ordinance No. 2011-13 (Bill No. 12 - 2011), Establishing Article 145 - Bethlehem Human Relations Commission, sponsored by Ms. Dolan and Mr. Evans, as Amended, on Final Reading.

Ms. Dolan, expressing the belief that the Ordinance will pass, pointed out that Members of Council worked to make it more in line with personal opinions and political beliefs, and it was voted on unanimously at the last City Council Meeting. Ms. Dolan thanked President Donchez and Attorney Spadoni for making the matter much easier to follow.

President Donchez, thanking Attorney Spadoni for his research on the matter, affirmed that City Council had to do it right and not jeopardize the integrity of Council, and face a possible challenge. President Donchez confirmed that when the procedural oversight was brought to attention last Wednesday he had immediately asked Attorney Spadoni to review the matter, and reiterated that is the reason for the Special City Council Meeting today.

Voting AYE: Mrs. Belinski, Ms. Dolan, Mr. DiGiacinto, Mr. Evans, Mr. Mowrer, and Mr. Reynolds, and Mr. Donchez, 7. Ordinance No. 2011-13 (Bill No. 12 - 2011) was declared adopted.

7. COURTESY OF THE FLOOR (for public comment on any subject - 5 Minute Time Limit)

Observations

Dana Grubb, 2420 Henderson Place, said he is happy that the Ordinance passed. Mr. Grubb commented on his observations during the course of review of the issue, and pointed out the sidebar discussions while others were speaking. Mr. Grubb expressed his opinion that City Council can and should do better.

Expression of Thanks

Joel Peitzer, Northampton County Community College campus resident, thanked City Council for passing the Ordinance, and passing it right. Mr. Peitzer, noting he is looking to move into Bethlehem, communicated it is really something when he can say that he lives in Bethlehem and is protected.

The meeting was adjourned at 5:40 p.m.

ATTEST:

City Clerk