

BETHLEHEM CITY COUNCIL - SPECIAL MEETING
10 East Church Street - Town Hall
Bethlehem, Pennsylvania
Thursday, February 16, 2012 - 7:00 PM

INVOCATION

PLEDGE TO THE FLAG

Reverend Gordon B. Mowrer, former Member of Council and pastor of the Moravian Church, offered the invocation which was followed by the pledge to the flag.

1. ROLL CALL

President Eric R. Evans called the meeting to order. Present were Jean Belinski, Karen Dolan, David T. DiGiacinto, Robert J. Donchez, Michael D. Recchiuti, J. William Reynolds, and Eric R. Evans, 7.

2. PUBLIC COMMENT

Filling Vacancy of City Controller

Judith Dexter, 1866 Homestead Avenue, stated that she came to this Meeting to speak on behalf of William Scheirer. Ms. Dexter explained she came to know him when she was serving as School Board Director for the Bethlehem Area School District and Mr. Scheirer came to the School Board meetings. Ms. Dexter advised that the Board became involved with the School District's financial dealings that included swaps. Ms. Dexter explained that, even though she is an attorney, she had no training in what was needed to understand the swaps and help guide the District to undo the harm that had been done. Ms. Dexter later mentioned that a number of the Board members began to rely on Mr. Scheirer's ability to be objective. They asked him to help to sort out some difficult issues on Roberts Rules of Order. They also asked him to come to the meetings at which there were financial experts so he could advise whether he believed the experts were providing the right information and whether the Board had asked the proper questions. Ms. Dexter noted that the Board asked Mr. Scheirer to be a leader of a committee that evaluated the District's community service program, and he did a superb job. Ms. Dexter related she was pleased that Mr. Scheirer had applied for the position of Controller. She thought he would be a very good fit for the City. Ms. Dexter listed some of the characteristics she would like to see for the Controller including integrity, someone who is knowledgeable, objective, easily able to integrate information from a variety of sources, knows and understands Ordinances and laws from a variety of sources, as well as understands some difficult accounting principles. Ms. Dexter added that the Controller has to understand policy issues that are perplexing in Government, processes, and have a sense of fairness. Ms. Dexter said Mr. Scheirer has all of these characteristics. Adding that Mr. Scheirer is a valuable member of the community, was always fair and trustworthy, Ms. Dexter expressed her hope that Council will consider him as a potential candidate for Controller.

Dana Grubb, 2420 Henderson Place, commented that tonight Council will act on behalf of the 73,000 residents in the City, not the Administration, and not themselves. He said the commitment required is greater than anyone can imagine. Mr. Grubb remarked that Council

questions, three candidates are much more qualified than the others. He commented that if Council rejects Robert Pfenning, William Scheirer and possibly David DiGiacinto then they should have problems with the other three candidates. He stressed that the aforementioned candidates have a much greater understanding of Bethlehem City Government given their regular attendance at many Council Meetings. Making reference to two questions on the list originally, Mr. Grubb thought that was another attempt to politicize the process and said he is happy to know that those questions were removed. He complimented Council President Evans and Council Solicitor Spadoni for recognizing that and removing those questions. Mr. Grubb, stressing that the position of Controller is a check and balance for City Council and the Administration, said the less politics and the more objectivity the better off the residents of Bethlehem will be.

Tom Carroll, 248 E. Union Boulevard, noted that the Third Class City Code has specific language about the Controller and that the individual must be a competent accountant. While noting he is not a municipal lawyer, Mr. Carroll advised he is a lawyer licensed in Pennsylvania. He went to the law library and reviewed Purdons to find a better definition in that section because it seems that two words could perhaps lend themselves to some subjectivity. In this case, he said the Controller should not be voted on in any subjective nature. He did not seem to find any specific language in the context of the actual statute. Mr. Carroll did some research further to see if there was any case law in point but could not find any. Pointing out that City Council does have a lawyer who probably did the same research, Mr. Carroll said he is asking that at some point in this process if Council's Solicitor did find any definitions within case law it be presented to the citizens of the City. Referring to the six candidates, Mr. Carroll communicated that three of them have competent accounting experience in life, work and education, but three of them clearly do not. He said the commonality of the three who do not have this experience is that they have political and social ties to Members of Council or the Administration. Mr. Carroll commented that the Members of Council have to be honest with themselves and ask if these candidates meet the requirement of the law of the Third Class City Code. He asserted that, if any of the three clearly do not meet the requirements, and Council nominates and votes for them, then Council owes the citizens of Bethlehem an explanation.

Stephen Antalics, 737 Ridge Street, expressed his concurrence with other speakers' comments. Mr. Antalics noted that the Controller needs to be on the side of the people and objectively detached from Council or the Administration. Mr. Antalics said if other than Mr. Pfenning or Mr. Scheirer are appointed he would have a very serious problem with the vote and will need to know why, and added that Mr. DiGiacinto could have been the third but he withdrew his name. Mr. Antalics urged Council to act in the best interest of the City.

3. COMMUNICATIONS

A. *Letters of Interest - Filling Vacancy of City Controller*

The Clerk stated that 6 Letters of Interest have been forwarded and copies have been made available for the Public. The candidates are as follows:

1. Duran H. Chakarian
1972 Collingswood Drive
Bethlehem, PA 18018-1511

2. David T. DiGiacinto *
135 East Wall Street
Bethlehem, PA 18018-6125

5. Jason Toedter
640 Linden Street
Bethlehem, PA 18018
6. George H. Yasso
1413 West Market Street
Bethlehem, PA 18018

* The Clerk stated that a letter was received on February 10, 2012 from Council Member DiGiacinto advising that he removed his name from the list of candidates.

4. PRESENTATIONS BY CANDIDATES AND QUESTIONS BY MEMBERS OF COUNCIL

President Evans advised that the candidates will be recognized in alphabetical order.

Presentations by Candidates

Duran Chakarian, 1972 Collingswood Drive, said he is proud to have been born and raised in Bethlehem, and educated from kindergarten through twelfth grade by the Bethlehem Area School District. His first experience with handling money was working for an oil company while attending junior college. Mr. Chakarian explained he was responsible for all revenue and monies on his shift, filling out all the necessary bank notes, and making each deposit. He was accountable for every penny and when a mistake was made he paid for it out of his own pocket. Mr. Chakarian advised that he attained a diploma in business operations from a local business school and a Bachelor of Arts in Business Management from DeSales University. Mr. Chakarian added that his curriculum consisted of Computer, Business, and Accounting courses. He also received a Certificate of Professional Management Development. Currently, Mr. Chakarian advised he is involved with non-profits and charities in the community, including being a mentor for the Lehigh Valley Professionals. Turning to the top three goals, Mr. Chakarian stated if he was chosen he would like to find new ways to increase revenue coming into the City. He would like to attract good, positive business partners. Mr. Chakarian, while acknowledging that the Sands is a major contributor, highlighted the fact that the City does not want to ignore small business owners because they are very important to the City also. He would like to try to control spending, and end 2012 on a positive note which is difficult considering the rising energy costs and the current economic climate. Lastly, Mr. Chakarian noted even though he lived in Quakertown the past several years, he has read what has been going on, and he moved back to Bethlehem in 2010. He observed everyone must be held accountable regardless of their status or position. Mr. Chakarian communicated that the overall objective is the financial health of the City, and these goals would be accomplished by being efficient, cost effective, and being a willing and open communicator with the Mayor, City Council, City Departments and most importantly the public. Expressing his genuine interest and desire to help the community, Mr. Chakarian promised to do so with honor, character, integrity, and impartiality at all times. Mr. Chakarian expressed his belief that he could make a positive contribution if given a chance.

Robert Pfenning, 2830 Linden Street, stated that he is a retired accountant, over the age of 21, is a resident of the City of Bethlehem, and is a qualified candidate under the Third Class City Code. Mr. Pfenning noted that the Controller's position is somewhat technical in nature, it is the third leg of government, and is independent from the other two. Mr. Pfenning said the most important thing is to be sure that the City and the Controller's office are compliant with the Third Class City Code. Mr. Pfenning commented that, currently, some reports required by the code are not being produced as far as he can determine. Noting that another important

Mr. Reichard and Mr. Sivak on the casino host fees, and in the past he has spoken about the host fees and the business of the Sands Casino. Mr. Pfenning thought one of the main tasks facing Council is to evaluate the candidates and be sure their qualifications correspond to the Third Class City Code.

William Scheirer, 1890 Eaton Avenue, remarked he would like to talk about something he did not include in his 15 page resume. He said it is questionable in his mind whether there would be any time for the Controller to actually do any performance audits. Mr. Scheirer commented that the first order of business is what is in the Third Class City Code and the ordinances of the City of Bethlehem that mention many audits and reports. Mr. Scheirer expressed what needs to be known is if the needs of the taxpayers are being satisfied. Mr. Scheirer related an experience he had when he was working on a State Aviation System Plan for the State of Virginia. One of the questions was what was the unmet demand for general aviation based aircraft in the State of Virginia. General aviation is planes that go where the owners want them to go. He noted that in the Lehigh Valley they are primarily at Queen City Airport. He highlighted the fact that unmet demand is not something that exists. One could take a survey but those are expensive. Mr. Scheirer noted that State by State based aircraft was a function of population per capita income, and land area and data was available on all of those things for all 50 States. He estimated an equation that related these things and using that equation he calculated the estimate for Virginia, which was greater than the actual number of based aircraft in Virginia. This showed support for the hypothesis that there was indeed an unmet demand for aviation based aircraft in Virginia. Mr. Scheirer said the same kind of analysis could be done in the City of Bethlehem using data by census tracking.

Jason Toedter, 640 Linden Street, communicated that no matter which candidate is selected to fill the position of Controller an amicable decision would have been made. Mr. Toedter pledged his support to the City of Bethlehem and its appointed Controller regardless of the decision made tonight. Mr. Toedter informed the Members that he is a resident of Bethlehem, and attended Moravian College where his mother is a psychology professor. He works as a project manager at R T Consulting and Engineering, which is his father's engineering firm. Mr. Toedter related that he has a Masters Degree in Public Policy, with a concentration in political process and procedures from the Bloustein School of Public Policy at Rutgers University. His wife has an MSW from NYU and works in Bethlehem Public Schools as a therapist. Mr. Toedter commented he states this to demonstrate that he and his family believe that success is learning. He believed that ability is demonstrated best through hard work, dedication, and the pursuit of a better outcome. He also believed that experience and qualifications can pose the best criteria for picking a good candidate out of a group of many. Mr. Toedter mentioned that experience has taught him many things that are right as well as wrong. In closing, Mr. Toedter said he believes that he has the experience and qualifications that meet or exceed the requirements for this position, but greater than that he has a vested interest in the success of the City of Bethlehem.

George Yasso, 1413 W. Market Street, stated he is a proud resident of the City of Bethlehem with family ties in the City going back to his great-grandparents. He attended Kindergarten through Twelfth Grade in the Bethlehem Area School District. Mr. Yasso advised he has a Bachelors of Science Degree in Business Administration from the Whittemore School of Business and Economics (WSBE) at the University of New Hampshire that has been ranked within the top ten in the country. In 2011, Brigham Young University recognized the WSBE accounting and information systems program as second in the entire world. Mr. Yasso noted that his studies included Financial and Managerial Accounting, Business Statistics, as well as courses in Finance, Business Management and Investment Analysis. Mr. Yasso pointed out that this education along with his professional background which includes financial planning, retirement planning, and consulting makes him believe that he is 100% competent to fulfill the

independent entity. Mr. Yasso stressed that he has the will, the ability, the time and resources to meet all of these obligations including the most important responsibility which is to every single taxpaying resident in the City of Bethlehem. In the event that he is appointed Controller, Mr. Yasso expressed the belief that his priorities have been stated clearly through his letter of interest, as well as the responses to the questions by Council. Mr. Yasso continued on to say, most important will be the need to begin working with Deputy Controller Gene Auman to get completely up to speed on current City practices, as well as what recent steps have been taken, if any, to resolve issues that would impact City finance. Mr. Yasso said he knows that Mr. Auman has worked beside Controller Meg Holland, and has continued to work in the Controller's office throughout this brief period of time. Mr. Yasso noted that, after meeting and speaking with Deputy Controller Auman, he would then be able to, along with the Administration and City Council, work to accomplish the goals that were stated in his letter of interest and his responses to the questions by Council.

Questions by Members of Council

President Evans stated that Members of Council will now present questions to the candidates in alphabetical order format. He affirmed that 19 questions were sent out late last week from the Members of Council to all of the candidates, and the responses were returned to Council and reviewed on Tuesday, Wednesday and today. President Evans advised that Council may ask questions about a resume, letter of interest, the questions that have been sent out, or on anything stated in the presentations tonight. President Evans stated that the questions will start with candidate Duran Chakarian.

Ms. Dolan mentioned that during the public comment section it was inferred that three of the candidates have political or social ties to the Administration or someone on Council. She asked what political and social ties Mr. Chakarian has to the Administration or Council.

Mr. Chakarian related that he has spoken to Councilman Reynolds and Council President Evans at the meet and greet this past Saturday at City Hall. He spoke for about two minutes with Councilman DiGiacinto. Mr. Chakarian noted that he has no ties at all and there is no conflict of interest with him. He has no relations in Bethlehem.

President Evans asked if there were any questions for candidate Robert Pfenning.

Ms. Dolan asked Mr. Pfenning if he has any political or social ties to the Administration or Council. Mr. Pfenning replied that he has absolutely no ties to the Administration or Council.

President Evans asked if there were any questions for candidate William Scheirer.

Ms. Dolan asked Mr. Scheirer if he has any political or social ties to the Administration or Council. Mr. Scheirer commented that he does have a political tie in the sense of the same political party. Mr. Scheirer added there may be disagreement on national issues but when it comes to local issues everyone is interested in the same thing and that is getting the needed services at a reasonable cost. As for social ties, he considers two friends.

President Evans asked if there were any questions for candidate Jason Toedter.

Ms. Dolan asked Mr. Toedter if he has any political or social ties to the Administration or Council.

Ms. Dolan highlighted the fact that a person who would be Controller through the normal process would have to run for office.

Mr. Toedter, acknowledging this is a political office, communicated that the goal is to have stability in the office of the Controller, and someone who could run and win an election. He observed it is the current political climate that we live in that we have to deal with some of the negative attributes of what people think of politicians. Mr. Toedter stated he is not ashamed to say that he would be a politician and he would run so he could do the best thing for the City and the residents of Bethlehem.

President Evans asked if there were any questions for candidate George Yasso.

Ms. Dolan asked Mr. Yasso if he has any political or social ties to the Administration or Council.

Mr. Yasso replied that as far as his political affiliation he is a registered Democrat who votes in every election. Socially, Mr. Yasso said Councilman Reynolds was a year ahead of him in high school, and he met Councilman Recchiuti a few years ago so he knows him on a social basis. Mr. Yasso added that he introduced himself to Councilman Donchez a few weeks ago and other than that he has no social ties with him. Mr. Yasso noted that he also met President Evans a few weeks ago for the first time. Mr. Yasso knows of Mrs. Belinski, because she was a teacher but did not have the privilege of having her as a teacher. Mr. Yasso said he knows Councilman DiGiacinto, but does not know Councilwoman Dolan. Mr. Yasso related that he does not apologize for any of his social ties to anyone. Mr. Yasso commented that, as he stated in his letter, this is an avenue that he thought would be perfect for him to give back to the City of Bethlehem. This is something he is qualified for and is interested in running for. Mr. Yasso advised that he is going into this with the idea of doing this for more than an interim basis, and that will be based only on the belief that he will be effectively fulfilling the responsibility of the Controller position.

President Evans asked if there were any questions for candidate Robert Pfenning.

Ms. Dolan mentioned that Mr. Pfenning has seen City Council pass laws, and then pass laws about notification. Council is supposed to be notified by the Administration when something happens and then given an opportunity to respond. Commenting that certain things are not to be done without the approval of Council, Mr. Dolan stated that Mr. Pfenning has seen those laws on occasion disregarded by the Administration. Ms. Dolan noted this has been frustrating for Council especially when it was learned how little Council could actually do about having laws or requests for disclosure honored. Ms. Dolan remarked that members of the public, and in particular the regular attendees of the City Council Meetings, were critical of the Members of Council during that period. Ms. Dolan asked Mr. Pfenning what he would do as Controller and what decisive action he would take if the same situation arose where the Administration had to make ends meet and did not go by one of Council's rules in terms of authorization or getting permission.

Mr. Pfenning stated that first the system of internal control has to make the Controller's office aware of transactions. He recalled a recent incident this year where the Controller was placed in an untenable position. Mr. Pfenning noted the Administration was attempting to do a transfer of funds without prior approval of Council as required by a City Ordinance. Mr. Pfenning commented that, when the Controller was faced with that decision because under this instance the Controller was aware of it and knew the transaction was not legally approved as it

Ms. Dolan queried, if something happened and after it occurs the Controller found out it was illegal, what does the Controller do. Mr. Pfenning, noting in the case he cited it was after the fact, stressed what was the Controller going to do since the Controller cannot arrest anyone. Mr. Pfenning stated if it is not known and then the Controller hears of it he would report it. Referring to internal control, Mr. Pfenning pointed out that, regarding transfers of funds and expenditures of public funds, the Third Class City Code clearly states the Controller should know about everything. Mr. Pfenning stated one of the first things he would be looking for as Controller in the internal control system is to set it up so that nobody in the Administration has the ability to transfer funds unless the Controller's office is aware of it.

Ms. Dolan asked Mr. Pfenning if he would keep the existing Deputy Controller if appointed. Mr. Pfenning, noting at this point with not having sat down and checked with any of the existing staff he cannot answer that, but on the surface he would say yes. Mr. Pfenning observed that the former Controller Meg Holland would not have kept him if he were not competent.

Ms. Dolan, referring to her questions about political and social ties, commented that political and social ties are not always positive. She observed that sometimes one has political ties that are negative so they would take a stronger stance against someone or come out against someone and that would be an impairment. Having strong feelings for or against someone politically or socially might cause an inability to be independent. Ms. Dolan asked Mr. Pfenning if he has any political or social positive or negative ties to anyone in Council or the Administration. Ms. Dolan related that she should maybe use the word impartial and not independent and that the Controller should be impartial and not be seeking to make things easy or to make things difficult. Ms. Dolan rephrased the question and asked if there is anything in Mr. Pfenning's past or present that is political or social that having those strong feelings would lead him to be impartial.

Mr. Pfenning commented he believes Ms. Dolan is asking the questions numbered 18 and 19 on the original list that were dropped by the Council Solicitor. Mr. Pfenning noted Question 18 asked if a candidate had ever been involved in anything political, and question 19 asked if a candidate ever gave a lot of money to a political candidate. In response to the second question, Mr. Pfenning said he has never given over \$500 to any City Council Member. He affirmed that he served as treasurer for three Republican Council Candidates, and the Campaign Finance Reports are on file in the City Clerk's Office. Mr. Pfenning added that in the public Campaign Finance Reports one will see that he did make some sizable contributions that this is his right under the system, and his right is to work in the political system for whomever he chooses. Mr. Pfenning remarked the fact that he was treasurer for some opposing candidates and that he preferred their views over the views of the other candidates running is also his right as a citizen. Mr. Pfenning said he cannot see anything that would prevent him from impartially dealing with Council. Mr. Pfenning pointed out that the Controller does not have any supervision over Council for anything, other than reporting to Council. Mr. Pfenning affirmed that he would have to approach the Administration, even if he disagrees with them, in a professional and impartial manner.

Ms. Dolan mentioned that Council Members have been criticized for having not taken decisive action when laws requiring full disclosure were disregarded. Ms. Dolan asked how Mr. Scheirer, as Controller, would handle this situation. She continued on to inquire what Mr. Scheirer would do if as the Controller he is supposed to be getting certain numbers and either does not get those numbers or gets the wrong numbers.

Mr. Scheirer replied that one has to act on the numbers they have. On the case Mr.

highlighted the fact that questions were sent to the candidates, the press, and the public to be as transparent as Council can be as it continues through this process. President Evans stated that Council can move into nominations.

Mr. Reynolds related that, as residents of the City of Bethlehem, people are actively involved in their community, come in contact with other people, and know other people throughout the City. Mr. Reynolds added that President Evans is the President of City Line Little League, Mr. Donchez was a teacher for 35 years, and Ms. Dolan is a long time teacher so that just as a general comment someone can say they know that person. Mr. Reynolds stressed that to say because you know that person that guarantees that you will support that person is a dangerous comment. Mr. Reynolds affirmed that, while he graduated with Mr. Toedter from Moravian College, he had possibly three conversations with him while they were at Moravian College. Mr. Reynolds continued on to say if someone saw on a resume that there are two Moravian College graduates from 2003 on City Council you might believe that they know each other well and there must be something going on but that is not the case. Mr. Reynolds pointed out that he and Mr. DiGiacinto disagree often but four years ago Mr. DiGiacinto gave Mr. Reynolds a contribution when he was running for City Council. Mr. Reynolds said he wanted to make the point that just because something comes up it does not necessarily mean that there is some sort of negative connection. In looking at the Members of Council, Mr. Reynolds pointed out that many have been teachers, have sat on Boards, and went to school in Bethlehem. Mr. Reynolds stated that to say there is a connection for anyone on Council or any candidate for Controller is unfair, and should not be part of the process, unless it can be proven that over a long period of time there is something there.

Ms. Dolan stated for the record that she is the only Council Member that Mr. DiGiacinto has not given money to but they have a good social relationship. Ms. Dolan, noting it was suggested that something here is a done deal, remarked that there is not one person on Council who knows how this will turn out tonight. She stated that two of the candidates get together after Council meetings, often have the same points of view, and are rather social. Ms. Dolan pointed out that is part of the beauty of being politically involved and being citizens. If they become socially close that is what happens when people are in the inner workings of their political community and is not a bad thing. Ms. Dolan pointed out that if they were the Controller they would be obliged by the law to follow the laws. As far as the phrase Competent Accountant, Ms. Dolan hoped if there is something to add that Council's Solicitor would add it, but commented that from what she has learned it does not mean someone who has a degree in Accounting. Ms. Dolan highlighted the fact there have been Controllers who have served for a number of years who were not Accountants. Ms. Dolan said it does mean someone with impeccable character, someone who understands and can handle money. She continued on to say the Controller also needs to be sharp, have to have a strong knowledge of business, and enough of a perspective on Government that once inside they will not be lost. She sees competent as being somewhat of a subjective term. Ms. Dolan commented that Council is looking for someone who can account for monies and do so quickly, who can be sharp, and have a good sense of honesty and integrity.

Mr. Recchuiti, affirming he is an attorney, noted he did do some research on this. Mr. Recchuiti stated that while the term Competent Accountant is not explained in the Third Class City Code, the Supreme Court did weigh in on this topic way in 1942, not in relation to the Third Class City Code but the Borough Code. The case is Commonwealth in relation to Adams versus Stevens. In that case, the Supreme Court stated there was contention as to whether the individual elected to Borough Controller was a Competent Accountant and whether that person also met the residency requirement. The Supreme Court did not address this in great detail but did say they did not think they needed to concern themselves with the contention that the respondent was not a competent accountant. The court noted the respondent had been a

provision and wanted the voters themselves to determine. Mr. Recchuiti thought that Council does not have to concern themselves with any of the candidates being competent accountants because he believes they all are. He also did some additional research and looked at course studies. Mr. Recchiuti believed that everyone who applied for this position has taken accounting courses, statistic courses, and economic courses. Mr. Recchiuti stated that all the candidates meet the definition of competent accountant and Council should not concern themselves with this matter anymore.

5. NOMINATIONS

President Evans stated that he will ask Members of Council for nominations. President Evans advised that a Member of Council may nominate a qualified individual who is not on the list of the five candidates. Each Member of Council, as their name is called by the Clerk, will state a name. The Clerk will call the Roll of Members of Council who will state the name of a nominee. After the nominations have been made, President Evans stated he will ask for a motion and second to close nominations. At that point, there will be a discussion by the Members of Council on the nominations before moving to the election that is Agenda Item 6.

Ms. Dolan asked if each Member of Council needs to nominate one candidate or can any Council Member nominate more than one person. Attorney Spadoni noted that, in looking at Roberts Rules of Order, a Member can nominate more than one candidate for the position. Attorney Spadoni, reading from Robert Rules, stated no second is required, but sometimes one or more members will second a nomination as an endorsement. No one can nominate more than one person for a given office if any objection is made until every member wishes to nominate has had the opportunity to do so.

Mrs. Belinski stated she would like to nominate David DiGiacinto.

Attorney Spadoni advised President Evans that Council Member DiGiacinto is now prohibited from any part of this process whatsoever.

President Evans affirmed there is a nomination for Mr. DiGiacinto who was originally a candidate but then withdrew his name so he did not make a presentation. President Evans confirmed that Mr. DiGiacinto did submit the answers to the questions, and he is able to be nominated. President Evans highlighted the fact that, at this point, Council Member DiGiacinto will not be able to vote for himself or anyone else, or participate in any other questioning of any other candidates, or any debate or open discussion during this process.

Ms. Dolan stated she would like to nominate William Scheirer.

Mr. Donchez stated that he nominates Mr. DiGiacinto.

Mr. Recchuiti stated that he would like to nominate George Yasso.

Mr. Reynolds stated that he has no nomination.

Ms. Dolan added that she would like to nominate Robert Pfenning.

Closing Nominations

President Evans stated that, with no more nominations, he would accept a motion and a second to close the nominations. Mr. Donchez moved to close nominations, and Ms. Dolan

DiGiacinto advising that he withdrew his name. Mr. Reynolds asked Mr. DiGiacinto if he could explain the matter.

Mr. DiGiacinto explained that when he was debating whether to submit his name he did talk to most Members of Council. He gauged some of the reactions he got and tried to understand better what his position was. He also noted the elections that took place for the President and Vice-President of Council. Mr. DiGiacinto expressed that he did not feel comfortable that he would get four votes. Mr. DiGiacinto affirmed that he knew he would not be able to vote. Mr. DiGiacinto noted he did state in his letter that he would like to serve the role for the remaining two years. Mr. DiGiacinto, recounting that he did run for the position of Controller in 2007, remarked it was a hotly contested race and he did not lose by a great margin. Two years later, he ran for City Council. Mr. DiGiacinto communicated that in itself shows the interest he had in serving in the City of Bethlehem in an elected role. Highlighting the fact that it was a surprise that Ms. Holland resigned as Controller, Mr. DiGiacinto said he did not contemplate this was going to occur. Mr. DiGiacinto commented he did not get a strong sense intuitively that he would get support although he would still like to serve in the role of Controller. Mr. DiGiacinto affirmed that he did follow-up on the questions because he knew there would possibly be a nomination from the floor.

Ms. Dolan observed that if Mr. DiGiacinto wanted to be Controller he could have run again two years ago, but chose to run for Council. She added that Council Member DiGiacinto got the chance to participate in the answering of the questions and in writing them. Stating that she thinks of him with the highest integrity, Ms. Dolan wondered why Mr. DiGiacinto thought this would be fair compared to what the other gentleman have gone through.

Mr. DiGiacinto thought that, other than the 3 or 4 minutes the candidates spoke, he is now answering questions more than some candidates did tonight already. Mr. DiGiacinto confirmed that he responded to all of the requirements that were put forth by Council, including an extensive letter of qualifications that he would have reiterated tonight. Mr. DiGiacinto added that he answered all 21 questions, and did not stop at 19. He did not think that he skipped out on any part of the process at this point.

Ms. Dolan queried whether Mr. DiGiacinto felt differently than before.

Mr. DiGiacinto stated he has never backed off the position and still feels that he would like to fill the role of Controller. Ms. Dolan, agreeing that Mr. DiGiacinto could fill the role, asked if Mr. DiGiacinto feels that now he will have the 4 votes. Mr. DiGiacinto said he does not know, and is going back to the statement that none of the Members of Council know if anyone here has 4 votes. Ms. Dolan asked what the difference would be with accepting the nomination at this point or having stuck with it when he first sent in his resume. Mr. DiGiacinto pointed out he still would like to be the Controller and expressed that he is one of the more qualified candidates based on his experience in life, business and government.

Mr. Reynolds observed that, since Mr. DiGiacinto is a candidate, throughout this process he cannot vote.

Attorney Spadoni confirmed that Mr. DiGiacinto cannot participate and he may not vote.

Mr. Reynolds asked if Mr. DiGiacinto withdraws now is there no going back.

Attorney Spadoni replied that is correct.

correct. Attorney Spadoni added that this protocol is established pursuant to Roberts Rules of Order.

President Evans stated he would open it for discussion if anyone would like to speak about their nominee, or any other topic before going to the election.

Ms. Dolan thanked everyone for coming, filling out the applications, and speaking and answering questions. She expressed her hope that this is not a deterrent to anyone running for office. She commented that, although the two gentlemen she nominated are different, one thing they have in common is their consistent devotion to paying attention to the process. She pointed out that they not only come to Council meetings, but go to other meetings as well. They are often engaged and knowledgeable about what is going on. On the other hand, Ms. Dolan said they do have a disadvantage which is that Council knows a lot about them, and how opinionated they can be. Recommending both individuals highly, Ms. Dolan added that Mr. Scheirer was helpful and informative when the Special Committee came up with new rules for Council. Ms. Dolan pointed out that the person with a mind for numbers would be Mr. Pfenning. Ms. Dolan expressed her support for both individuals for this job and in other positions they might seek down the road.

President Evans commented that he plans to support William Scheirer. President Evans noted he saw Mr. Scheirer first at a Zoning Hearing Board Meeting and was impressed by the way he supported the neighborhood. President Evans said he has seen Mr. Scheirer at Planning Commission meetings, City Council Meetings, and Committee meetings. President Evans pointed out that Mr. Scheirer is on the Board of the Bethlehem Area Public Library and the South Bethlehem Historical Society, and receives no money but puts his time into these organizations. President Evans communicated that although Mr. Scheirer can be critical at times he is fair. President Evans pointed out that Mr. Scheirer pays incredible attention to detail and is a great thinker. His resume is impressive and what separates him is his experience. President Evans continued on to say in this particular case of the Controller, it is a 22 month position. Anyone who takes this role should be able to be up and running immediately. President Evans added that Mr. Scheirer has government activities and experience, has worked with qualitative and quantitative analysis, and has economics and statistical work experience. President Evans added that Mr. Pfenning is qualified because he is a qualified accountant and is in tune with the City's finances that makes him a strong candidate. President Evans said he was impressed with Mr. Yasso's presentation because he would have a fresh and new perspective, and also has a strong education.

President Evans, acknowledging that Councilman DiGiacinto was nominated through a different process, stated he is qualified and carries an impressive academic background. Pointing out that Mr. DiGiacinto is valued on Council, President Evans explained the concern he has is that when there was an election two years ago for Controller and Council, Mr. DiGiacinto chose the role of Council. President Evans said he is glad Mr. DiGiacinto is on Council and sees this as an obligation. President Evans denoted if Mr. DiGiacinto is elected that would be the will of Council and he will be put in that seat.

Ms. Dolan expressed it seems important to her that if someone on Council wishes to nominate someone they should explain to Council why they wish to nominate. She added that she has heard more about people who were not nominated.

Mr. Recchiuti stated that he would like to explain why he nominated George Yasso. Mr. Yasso brings valuable educational experience to the role of Controller and his resume speaks for itself. Pointing out that Mr. Yasso has a background in financial planning and the Controller

Administration. Mr. Reynolds pointed out that in the past few years the Controller has done a good job in the position and sending information to Council, and the Deputy Controller, Gene Auman, was part of that. The Controller's Office started some initiatives that have saved money in the City over the past few years. Mr. Reynolds pointed out that Mr. Yasso was the only candidate who included in his answers the fact that he would be willing to retain Mr. Auman. Mr. Reynolds added that, when Mr. Yasso spoke highly of Mr. Auman as well as some of the things that the Controller's office has started, he thought that for the remaining two years this is consistent with the goal of the Controller's office. Mr. Reynolds thought that bringing someone from the outside might be good in this particular case, and restated that he will be supporting Mr. Yasso.

Mr. Donchez stated that he will be supporting Councilman DiGiacinto. Mr. Donchez said he appreciates all of the time the other candidates have put in. Mr. Donchez added that, in looking at Councilman DiGiacinto's resume, his experience in business, budgeting, oversight accounting practicing, audits, pensions, and investment banking is important because this is a two year term and there would not be too much of a learning curve. Mr. Donchez thought that Ms. Holland was very good as Controller and Mr. Auman should stay on in the Department but pointed out that is the decision of the new Controller. Mr. Donchez, relating that Mr. DiGiacinto is qualified and is independent, added that he has not always agreed with him at this table but when he looks at his resume he is qualified to start tomorrow, and that is why he is supporting Councilman DiGiacinto.

6. ELECTION

Mr. Evans stated that Council will now proceed to the election and it will move through with a roll call vote. The Clerk will call the names of the Members of Council and they will vote on one of the nominees. Four votes for one candidate is needed to declare a winner.

Ms. Dolan asked if in the event four votes are not reached would Council proceed again or would it make someone to be compelled to drop out.

Attorney Spadoni related it is very important that Council vote for their candidate as they best see fit in the derogation of their duties. Attorney Spadoni confirmed that the Members of Council may vote a number of times, and in fact may not be able to choose someone this evening. Observing there is no idea what is going to happen, Attorney Spadoni said certainly the Members of Council should vote in the best interest of the citizens of Bethlehem pursuant to their sworn duty as a Council person.

Ms. Dolan asked if Council can vote for someone who has not been nominated. Attorney Spadoni replied yes.

President Evans asked the Clerk to call the roll.

Mrs. Belinski voted for Mr. DiGiacinto. Ms. Dolan voted for Mr. Scheirer. Mr. Donchez voted for Mr. DiGiacinto. Mr. Recchuiti voted for Mr. Yasso. Mr. Reynolds voted for Mr. Yasso. Mr. Evans voted for Mr. Scheirer.

Vote on Nominees - First Ballot

Voting for Mr. DiGiacinto: Mrs. Belinski, and Mr. Donchez, 2.

Voting for Mr. Scheirer: Ms. Dolan, and Mr. Evans, 2.

Mrs. Belinski voted for Mr. DiGiacinto. Ms. Dolan voted for Mr. Scheirer. Mr. Donchez voted for Mr. DiGiacinto. Mr. Recchuiti voted for Mr. Yasso. Mr. Reynolds voted for Mr. Yasso. Mr. Evans voted for Mr. Scheirer.

Vote on Nominees - Second Ballot

Voting for Mr. DiGiacinto: Mrs. Belinski, and Mr. Donchez, 2.

Voting for Mr. Scheirer: Ms. Dolan, and Mr. Evans, 2.

Voting for Mr. Yasso: Mr. Recchuiti, and Mr. Reynolds, 2.

Attorney Spadoni related that it may be appropriate for him at this point to state what is in Section 802 Third Class City Code. Attorney Spadoni advised it states that if by reason of a tie vote or otherwise, such vacancy shall not have been filled by the members of city council within the time as limited herein the court of common pleas, upon the petition of ten or more qualified electors, shall fill such vacancy by the appointment of a qualified person for the portion of the unexpired term as herein provided. Attorney Spadoni indicated that if it reaches the point where there is an impasse and a locked vote, and a candidate cannot get four votes, then it will go to the court of common pleas.

Mr. Donchez inquired hypothetically, if Council is deadlocked this evening, is it within the 30 days so that Council could have a continuation of this meeting next Tuesday. Attorney Spadoni replied yes. Ms. Dolan asked what would determine a deadlock, and whether it will be opened up to questions and discussion before determining a deadlock. President Evans pointed out that he would like to have as much discussion as possible and that with six members it is more difficult with having two, two and two votes. President Evans related that the Members should work on this as a Council before it would go to Northampton County Court, whether it is tonight or Tuesday. President Evans stated that the Members need to talk about the candidates and if they can move to other candidates.

Mr. Reynolds, noting that if it gets to the point where Council is deadlocked, asked how it is decided to continue this meeting before the City Council next Tuesday before going to Court, and added that Council would want to avoid going to Court. In this particular scenario, he expressed the hope that even if Council cannot come to a conclusion tonight, the Members will be able to take the next four or five days to learn more, or whatever needs to be done to reach a conclusion before it goes to Court. Attorney Spadoni added there is a 30 day window and Council has the ability to act within that 30 day window.

Mr. Recchuiti asked when the 30 days closes. Attorney Spadoni replied that the resignation of the Controller was January 31, 2012 and it will be 30 days hence.

Ms. Dolan explained that the kinds of questions she would want to ask now would be specific to three, two, or one of the candidates she is leaning towards. Ms. Dolan added she is probably looking at two candidates now and she would like the opportunity to ask questions of those two that specifically address their occupations and this could maybe change her mind.

President Evans, expressing his agreement with Ms. Dolan's comments and thoughts, observed that with the results of the vote tally on two roll calls of two, two and two perhaps City Council should take a few more votes. Commenting that he was hoping for some conclusion tonight, President Evans acknowledged it looks like Council has not reached that point. President Evans thought that moving the discussion to next Tuesday would allow more

Mr. Reynolds commented that he agrees and it would be in the best interest of Council if the votes are the same way again.

Mr. Donchez agreed with Mr. Reynolds and added it is important if Council is deadlocked tonight that the Members convene Tuesday. However, Mr. Donchez stressed it is also important that this body make a selection and not have the selection of City Controller go to Northampton County Court.

Mr. Recchiuti agreed with Mr. Reynolds and Mr. Donchez. Mr. Recchiuti asked if the selection of City Controller would be a regular item on the City Council Agenda for next Tuesday or would it be a Special Meeting prior or after the Council Meeting. Attorney Spadoni stated that, in his opinion, Council can do two things. The Members of Council can recess this evening's Special Meeting by a motion, second, and vote of Council and then have a meeting next Tuesday at 6:00 p.m., or it can be listed as Old Business on the Agenda.

Ms. Dolan asked, if the matter of choosing the Controller is considered Old Business on the Agenda, does that give Council the opportunity to ask more specific questions of the nominated or other candidates during the Meeting. Attorney Spadoni responded it would be his goal as always that the public should be heard, and so should City Council. Attorney Spadoni said he would opine that questions would be in order during the Meeting without a time limit.

Mr. Reynolds remarked given the fact that the regular Council Meeting is at 7:00 p.m. next Tuesday it could possibly be pushed back, but there may be many questions and Council may be deadlocked. Mr. Reynolds suggested that the Members should think again about posing questions and allowing them to get answers back. Mr. Reynolds noted that way the Members of Council can comment and the public can comment as well before. Mr. Reynolds stated that if Council gets those answers back and the people in the audience think a certain person is right or wrong that could influence Council as well rather than making them speak on the same information they have now.

President Evans asked the Clerk to call the Roll. Mrs. Belinski voted for Mr. DiGiacinto. Ms. Dolan voted for Mr. Scheirer. Mr. Donchez voted for Mr. DiGiacinto. Mr. Recchuiti voted for Mr. Yasso. Mr. Reynolds voted for Mr. Yasso. Mr. Evans voted for Mr. Scheirer.

Vote on Nominees - Third Ballot

Voting for Mr. DiGiacinto: Mrs. Belinski, and Mr. Donchez, 2.

Voting for Mr. Scheirer: Ms. Dolan, and Mr. Evans, 2.

Voting for Mr. Yasso: Mr. Recchuiti, and Mr. Reynolds, 2.

Recess of Special City Council Meeting; and, Reconvening After City Council Meeting on Tuesday, February 21, 2012

President Evans asked for a motion to recess the Special City Council Meeting and to reconvene following the conclusion of the next City Council Meeting on Tuesday, February 21, 2012 that begins at 7:00 p.m. President Evans noted, in this way, the City Council meeting can start at the normal time of 7:00 p.m., would conclude and be adjourned, there would be a short recess, the continued Special Meeting would be called to order, and hopefully the matter would be brought to a conclusion. Ms. Dolan made the motion and Mr. Donchez seconded the motion. Voting AYE: Mrs. Belinski, Ms. Dolan, Mr. Donchez, Mr. Recchuiti, Mr. Reynolds and Mr.

President Evans replied that the continued Meeting will proceed with Public Comment at the beginning and at the end. President Evans continued on to say at the February 21 Meeting, Council will have questions, comments, and new thoughts. After Public Comment at the beginning of the Meeting, President Evans advised he will then turn to Members of Council for questions of the candidates, the Agenda will then proceed to the Election, and hopefully City Council will reach a conclusion, and then there will be Public Comment again.

Mr. Pfenning, noting that currently there are three nominees, queried is it possible in the discussion that a fourth, fifth or sixth nominee may surface, and then there would be a different issue.

President Evans stated that is correct.

Dana Grubb, 2420 Henderson Place, commented that at this Meeting the public could witness the interaction between Council Members and the candidates.

9. ADJOURNMENT

The meeting was adjourned at 9:30 p.m.

ATTEST:



City Clerk