

BETHLEHEM CITY COUNCIL MEETING
10 East Church Street - Town Hall
Bethlehem, Pennsylvania
Tuesday, September 15, 2020 – 7:00 PM

INVOCATION

PLEDGE TO THE FLAG

1. ROLL CALL

President Waldron called the meeting to order. Present were Bryan G. Callahan, Michael G. Colón, Grace Crampsie Smith, Olga Negrón, Paige Van Wirt, and Adam R. Waldron, 6. J. William Reynolds was absent, 1.

PUBLIC HEARING

Prior to the consideration of the regular Agenda items, City Council will conduct a Public Hearing to accept public comment concerning a privately proposed Zoning Map amendment request from Creek Investors, LLC & Exchange 9, LLC requesting the rezoning of parcels of land located at 2105 Creek Road from RR Rural Residential Zoning District to R-RC Residential Retirement Complex Zoning District.

Communication 6A – City Planning Commission – Zoning Map Amendment – RR Rural Residential Zoning District to R-RC Residential Retirement Complex Zoning District

The Clerk read a memorandum dated March 12, 2020 from Darlene Heller, Director of Planning and Zoning, stating that at their March 12, 2020 meeting, the City Planning Commission voted against supporting the privately proposed Zoning Ordinance map amendment to rezone two parcels located at 2105 Creek Road in the City of Bethlehem from RR Rural Residential to R-RC Residential Retirement Complex Zoning District.

Communication 6B – Lehigh Valley Planning Commission – Zoning Map Amendment – RR Rural Residential Zoning District to R-RC Residential Retirement Complex Zoning District

The Clerk read a memorandum dated February 21, 2020 from Samantha Smith, Chief Community Planner of the Lehigh Valley Planning Commission commenting on the privately proposed Zoning Ordinance map amendment to rezone two parcels located at 2105 Creek Road in the City of Bethlehem from RR Rural Residential to R-RC Residential Retirement Complex Zoning District. The memo states that the rezoning proposal is generally inconsistent with the County Comprehensive Plan, because it is located entirely within a High Conservation Priority area of the Natural Resources Plan. The LVPC offered additional comments related to the proposed amendment. Environmental Impact comments: The subject properties are located entirely within the Federal Emergency Management Agency (FEMA) Flood Way and 100-Year Flood Zone, where the proposed zoning for age-restricted residential development does not ‘minimize environmental impacts of development to protect the health, safety and welfare of the public.’ Additionally, Development in the Flood Way and Flood Zone may also conflict with FEMA standards for critical facilities housing populations with limited mobility. Hazard

Mitigation and Economic Vitality comments; location in the floodplain does not 'incorporate resiliency and hazard mitigation into planning and design, including 100- and 500-year floodplains', as the proposal would create housing for a lower-mobility population which may increase hazards during flooding events and creates a propensity for flooding losses to housing. The LVPC also stated concern that Emergency responses related to potential inclement weather events may be hampered by the location of the property. There are some additional comments and observations in the comment letter.

President Waldron mentioned before he recognizes the petitioner he wanted to make note about our YouTube stream. At our last meeting we had a few folks who were unable to call in during public comment and our IT Department was unable to reproduce any issues on our end. He thinks we might have a potential issue as to why that happened. If people are not viewing the YouTube stream at the exact moment where it is live there could be a delay of a few seconds or a few minutes if they are starting viewing their YouTube feed a little bit later than the actual start of the meeting and it would lag consistently throughout the entire meeting. So if you are catching this message he encourages making sure that you are sliding that bar all the way to the right so you are in fact viewing live and then you should get his request to call in during the public hearing and both public comment periods. That was the issue at the last meeting, people were getting his call a little bit too late and by that point we had moved on and our phone is on "do not disturb". President Waldron added the other great way to avoid that is to sign up ahead of time which would give him your name and contact information and then call you. We do have a few names on that list. That is done by emailing the Clerk's Office prior to Council Meetings to get your name on that list.

Bill Arden with Keystone Consulting Engineers explained he will be leading the presentation. He believes that Abraham Atiyeh and Priya Atiyeh are on this GoToMeeting. Abe Atiyeh is the owner of the property and Priya Atiyeh would be involved in the operation if the project were to go forward. He added that Sue Kandil is the Site Engineer and Gene Berg is the Architectural Consultant and will be providing some information toward the end of the presentation. As was mentioned this is a request to rezone from RR to RR-C in order to build a 40 unit senior retirement building with 20 single bedroom and 20 two bedroom units. If you look on page 5 it shows you the specific location which is the intersection of Freidensville and Creek Roads. He continued on to say if you look at the site plan on page 18 that gives a good indication of the project. Mr. Arden informed he just picked up on the fact that the LVPC said it is in the floodway but it is not in the floodway, it is in the floodplain, it is adjacent to the floodway. If you also look at that site plan you can get a sense of the relatively non-intense development in the sense that this is an extremely large project and we recognize it is a lot of floodplain but if you look at the property and what is proposed on it, there is a very minimal amount of impervious and a very minimal amount of proposal involved. So that large area which he will refer to later is one of the things that gives us the benefit because that allows for grade adjustments to mitigate the impacts of a floodplain encroachment. The ordinance does allow encroachments, not in the floodplain but then there is the provision that you have to mitigate those impacts and by having such an extremely long and large property we have quite a bit to work with to be able to mitigate that. For example through custom fills that could mitigate it so it could be compliant with the zoning ordinance basically saying you could not increase the base flood elevation. The project in very simple terms is giving a community need for senior living facilities. Mr. Arden explained in that regard he took the time to go through the Comprehensive Plan. He just wanted to make reference to two things in that plan that are important to the consideration. The first one is there

is reference that the demographics in the city are growing over age 65. It also refers to affordable housing. He noticed in both cases where it refers to affordable housing and the need to provide housing and facilities. It does not specifically state seniors and recognizing that the City of Bethlehem is growing in terms of age there will be more and more people looking for facilities such as senior apartments in the city so they can retire where they have been the whole time. This leads to the question of why this property. For starters he will say it would be the only property in the city that is zoned R-RC that would be occupied. All the other R-RC zones are already occupied or developed which means there is no place else in the city with that zoning to put this type of facility. There are also no private owned properties with a minimum area of 10 acres in what he would call the urban area which is one of the requirements. So again, it limits the potential for such a use for that specific property and we think that is a very important consideration. Mr. Arden continued on to say the Lehigh Valley has experienced significant growth and as a result, and he has been in this business over 40 years, he is seeing more and more properties that are maybe not exactly the best property to be developed, but there is not much left. As he just indicated there is a very limited ability to put this type of facility anywhere in the city at least in the urban area. The proximity to Saucon Valley Manor cannot be underestimated because that allows for the synergy between the two locations. For example, someone could be in the senior living facility moving into Saucon Valley Manor or there could be a spouse in the senior living and someone else in the Saucon Valley Manor, so there would be synergy between the two locations. It is at the intersection of Freidensville and Creek Road which means it is in close proximity to Saucon Valley Manor. As far as the selling points of the proposal there are some things that he should highlight. It does meet the minimum area of 10 acres and there are really no properties of 10 acres or more available other than this one that would allow for this type of use if it were to be rezoned. The building will be compliant with the maximum number of stories of 4 and the maximum height of 45 feet, no question about that. There is no impervious coverage limitation. There is a building coverage limitation of 25%; the building on this property that is proposed will have a coverage of 3.3% which emphasizes his earlier comment about the very minimum use that is being proposed on the property. For those that are familiar with the property you know there is an existing house on it and that house is going to be used for limited medical and support services for the main building. So that will remain and be renovated and serve what they will call a support building for the main building. In earlier discussion Ms. Heller raised a question about the ability to put additional improvements on the property particularly it is a minimal proposal. The applicant has absolutely no intent to put anything further and if necessary that could be part of the covenant on the deed to preclude any additional development. So what you are seeing on this plan would be the ultimate of anything that would on this plan. Floodplain issues are big ones to discuss and as he mentioned this is not in the floodway and that is important because being in the floodway would be a violation. Being in the floodplain although may not be necessarily desirable but sometimes you have to turn properties that may not be the most desirable but it does permit construction in a floodplain providing that you mitigate the impacts on the base flood elevation. As far as the facilities themselves whether it is the building or the parking lot they will be constructed above the floodplain elevation. They will have all the necessary flood proofing required by the zoning ordinance. An example of that if you look on page 23 you will see the Sacred Heart Senior Living by the Creek which is probably as close to this project as you can get because it is exactly the same thing. It sits on a floodplain and in visiting the site you can see that they basically filled the floodplain in order to raise the building and parking lots up out of the floodplain and left the rest of the property undisturbed and that is the concept of this. Number one, the base flood impacts would be mitigated and number two, the buildings and facilities would be constructed with the necessary flood proofing

in addition to the fact that it would be above the 100 year flood. Mr. Arden then mentioned the traffic considerations and added that residents expressed concern about the vehicles on Creek Road. For starters he would say that this type of use has very minimal traffic. You can appreciate that seniors in apartments are not going to be driving all that much and when they do they probably would be driving in off hours. So even if there is peak traffic on Creek Road the likelihood of them joining that traffic is unlikely. They do have the freedom to come and go when they want to. Mr. Arden explained the driveway is going to be located close to West Water Street in order to mitigate any impacts of that traffic. So that traffic will be leaving the main roadway and going to the driveway which is in close proximity. They will not be traversing up along the remaining properties on the side of the road. There is also a proposal with many walkways and trails which will serve a number of purposes. Number one, to provide amenities for seniors to be able to walk around the property for exercise and in addition by connecting to the sidewalk system it will allow them to access the urban areas. For example there is a Lanta bus stop over on Hellertown Road that they could walk to. That walkway and trail system will be worked out closely with city staff, the Planning Commission and Council ultimately to make sure that is providing all the benefit it can. Mr. Arden continued with the environmental considerations. They will be necessary to get NPDS permits and anyone who has been through that process knows it is an extremely long arduous process where you have a number of things that are researched in terms of environmental impacts. We will have to satisfy those requirements without a doubt. There is something called a PNDI which is the Pennsylvania Natural Diversity Inventory Environmental Review. This identifies what is on the property and whatever is identified has to be dealt with in some way. From that standpoint there will be a lot of work required to address those. The DEP and the city's floodplain administrator will be very involved in this because of the necessary permits and approvals, particularly as it relates to the floodplain. There are requirements in the ordinance that will be reviewed very thoroughly as part of the review process for the land development. He knows there are concerns with the neighbors about what he will call aesthetics, the impact of the facility since it is a multi-story building. Mr. Arden pointed out Gene Berg has some information that they feel is very compelling to indicate that the concern these people have with this "large" building that will be visible, that will not be the case, there is more than ample screening.

Mr. Berg informed to look at page 18 to start that is the site plan. Our proposal will save the residential natural character of Creek Road. Very few if any trees will be cut down for the proposed development and that is because the building and the parking lot are proposed at the location of the present horse corral which is open field. There will be no development, tree cutting or earth moving within the floodway which comprises the two third majority of the site adjacent to the creek. On page 20 there is a rendering of the proposed building. For the first 10 to 15 feet off of Creek Road they will leave the existing trees as a buffer and then directly behind the existing trees we are proposing a robust tall evergreen buffer between Creek Road and the parking lot. Mr. Berg continued with page 22 remarked there are twin residences which are located directly across the road and the densely developed Society Hill Apartments are further west along Friedensville Road. Furthermore on page 22 you see google street views that shows that the adjacent neighbors across Creek Road already have significant evergreen tree buffer zone which shield their view of Creek Road let alone what is across Creek Road. Considering the combination of our evergreen tree buffer and the neighbor's evergreen tree buffers none of the neighbors will see the building. Mr. Berg went back to page 20 and state their south elevation profile demonstrates that their mature 30 foot evergreen tree buffer will completely screen the neighbor's views of the building; it shows a section through the site from the neighbors uphill

looking across Creek Road. Mr. Berg then continued with the color rendering of the project on page 19 and as you can see from the rendering the building will have a residential appearance with a three twelfth sloped shingled roof, A-framed gables, stone and cement board siding facades detailed with trim boards around the windows. The building is designed as a high class, high end retirement community apartment building which aligns with the comprehensive care levels at the nearby Saucon Valley Manor on Main Street in Hellertown. There will be no flat rubber roofs in the building, no mechanical equipment on the rooftops. Mr. Berg stressed this building is designed to look residential and fit in with the surrounding neighborhood. On page 18 which is the site plan you will see the driveway is proposed as far south as possible and as closed to Friedensville Road or West Water Street to keep traffic limited to the very end of Creek Road. On page 19 the proposed department building is designed as an independent living community housing retired people of an average age of 70 to 75 years old. The site is designed to provide a park like setting with delightful nature trails through the existing forest down to the edge of the Saucon Creek. These trails would provide the opportunity for elderly residents to go for a stroll, observe nature, sit at a park bench, and go fishing. When you factor in the recreation of the walking trails and the fishing in the adjacent Saucon Creek the development will be one of the nicest independent living communities in the Lehigh Valley. Mr. Berg affirmed it was mentioned that Sacred Heart Senior Living by the Creek shows that a senior independent living facility is perfectly appropriate adjacent to a creek and this is an example of the exact same type of development next to a creek which functions beautifully. As was also mentioned the existing house will be renovated for a visiting doctor to provide limited healthcare to satisfy requirements of the R-RC zone and the needs of the elderly people who are living at the facility. At this stage with the rezoning we would anticipate no variances in order to develop the project as proposed to you tonight.

Mr. Arden noted as he mentioned earlier with the Comprehensive Plan that makes reference to the aging population he would ask that Council view this project although not the ideal property as a very essential need in the city to allow people who are aging who want to age in place and want to remain in the city be able to rent a very affordable apartment and have the synergy with Saucon Valley Manor. Our society is aging and these people are looking for affordable places to live and this would provide that service and that availability to those senior citizens.

Mr. Atiyeh added that his professional architect and engineer presented the engineering facts of the project. The core base of the facts are that the City of Bethlehem does not have any affordable independent living. They have Moravian Village which is very expensive you need to buy to get in. He pointed out that Kirkland Village is \$6,000 a month to live there plus a buy in fee. You cannot find affordable blue-collar independent living in the whole city, no one is building them. Hanover Township up near Wegmans, they have actually two and are building another assisted living up there. The City of Bethlehem residents that cannot afford Kirkland Village or Moravian Village are leaving the city, we are losing them. There is Holy Family Manor that has a little bit; mostly their independents are going to the Catholic Priests. Mr. Atiyeh pointed out he and his family are the largest personal care providers and we are now venturing into the independent living market which is where the new baby boomers are coming into. In Saucon Valley Manor we built our first independent living there and it is 40 rooms and almost like this but it is studios and one bedrooms. We had a lot of people from the Saucon Valley region, wealthy people that say the rooms are a little bit too small so we designed this building to have bigger one bedrooms and bigger two bedrooms that are for people who are healthier but

still want to be in an independent living process. The existing house that is on that property will be for medical services, a little club house, and we will deliver meals from Saucon Valley Manor to all 40 of our rooms here if a resident does not want to cook, we will bring meals over to them, breakfast, lunch, and dinner. Many people like to be independent and many are tired of cooking. We feel this is the nicest location in the Lehigh Valley to live if you want affordable independent living; you are not in a big continual care retirement community on 50 acres or like Kirkland Village. This is 40 units in the nicest area in the City of Bethlehem, a beautiful place to live. There are the twin homes next to this which are \$800,000 to \$1 million dollar homes and are beautiful. Next to that are the apartments that J. B. Reilly built, and there are 4 story apartment buildings and across from that is Society Hill. Mr. Atiyeh explained Society Hill was basically built as a condo community and behind Society Hill is another retirement community which is an active adult retirement community. This particular area is an ideal place to live because of the Saucon Creek and the parks system and the rails to trails that takes you right into the City of Bethlehem and the beautiful borough of Hellertown. Mr. Atiyeh can say that 80% of the people in the City of Bethlehem cannot afford your current independent living projects, they do not have any resources to go into Kirkland and Moravian Villages with the buy in and the high rates they charge. This is an opportunity for Council and he as a developer to provide only 40 units. We are also only developing 3% of the 10 acres in a sensitive area. He knows the neighbors are complaining and do not want a 4 story building but it is a matter of the fact that their mothers or parents could be living in this building right across the street from them. This is an area where independent living people are actually from age 75 up to 95 now. We have people at our campus at Saucon that are 92 years old and a few of them still drive. We should be serving the aging population. One important thing is that this 10 acres if rezoned R-RC would be the only available R-RC zoning. In the past there are some Council Members that have been doing great with rezoning requests for retirement communities but there is nothing left, there is nowhere else that is the R-RC zone. This is the opportunity to provide for the south side of Bethlehem. The nearest R-RC zone to this site is Moravian Village which is across the bridge. He added that Kirkland Village is zoned this as also is Holy Family Manor. Mr. Atiyeh remarked this is a great tax use, we are taxable, we provide jobs, and we take care of the elderly and there is no traffic impact. Mr. Atiyeh noted there are green grass, deer, walking paths, and mature trees; where else would you want to live? He would like to be able to rebut when the neighbors speak if possible. He would like to comment because many of the neighbors that live next door moved in to a community that was right next to a 4 story apartment complex. They came in after the fact. He does respect these neighbors but he wants Council to understand when they moved in there was a 4 story apartment complex right next door to them. They do have a right to be upset and he would be also but he would ask what was going in there and would find out it is an independent living building which is residential in nature and is buffered and only using 3% of a 10 acres site and it will be serving a population which could be their parents. Mr. Atiyeh was not at the last Planning Commission meeting but he is here for the long haul. We have Bethlehem Manor on Pennsylvania Avenue and we provide affordable personal care to the City of Bethlehem. We are here to stay and are working on Center and Dewberry Streets trying to get a grocery store in there and if it does not work out we have other options but we love the City of Bethlehem and are here to stay. The Latino and Latina population on the south side of Bethlehem work at Saucon Valley Manor and Bethlehem Manor, we support the whole south side workforce. Of our 350 employees he believes that 225 are Latino or Latina. With this new place we hope to support the employees that come out of south Bethlehem. We have an excellent workforce. They are having trouble staffing Parkland Manor out there but the Bethlehem projects are easy to staff with good working class people. We feel the nature of the construction, the stone and wood and the fact that everyone will

have a deck; we will be as compatible in the neighborhood as the apartments on the other side. For Council to look at this project and say this is going to be a beautiful project and serve the community with limited traffic and for the neighbors to affect the future of 40 independent singles in this building would be non-productive for supporting our Bethlehem citizens. He wanted to thank Council and added he is available to answer any questions.

Darlene Heller, Director of Planning and Zoning explained Council has the memo to the Planning Commission and we describe their reasons that we recommend that the Planning Commission not support the proposal. Most significantly it is because it is within the 100 year floodplain area. We completely redid the zoning ordinance in 2012 and there were some big picture ideas that we wanted to advance at the time. One was to allow more density and more flexibility in the core of the city and the other then was to inversely protect our natural areas, the steep slopes, the wooded areas, and the floodplain areas, the outline areas and protect the existing neighborhoods. This would be an area where we consider this to be an environmentally sensitive area. She affirmed that is really the reason it makes this an attractive piece of property, it is an environmentally sensitive area. It is zoned Rural Residential and is the lowest density zoning district that we have. We allow single family detached homes there. The maximum building coverage is 15%; the maximum impervious coverage that is permitted is 50%. Ms. Heller continued on to say in the R-RC zoning district 25% building coverage is permitted and there is no maximum impervious coverage. They noted that they are going to be well below what is permitted in R-RC but still the zoning district would allow for a significantly greater amount of development. Much of the parcel is located in a floodway so it is completely undevelopable. Even in the floodplain there are uses that are expressly prohibited. One of them is a nursing home and she will note they are not proposing a nursing home but it is senior housing. Some of the residents may be of limited mobility. It is not an ideal location for that kind of development. Also, in a floodplain area we would want to minimize impacts so one of those would be to minimize the amount of impervious coverage. The project shows 60 total parking spaces in the development. Our ordinance would require 28 spaces, less than half for that type of development. So there really needs to be shown that there is some goal to really try to be sensitive to the environmental nature of the property. Ms. Heller mentioned she wanted to comment on a few things that the applicants noted in their presentation. The Comprehensive Plan is something that we obviously look at regularly also. It does talk about the growing senior population and it continues to grow. It does talk about our growing need for affordable housing and she acknowledges that is true also. But the Comprehensive Plan also spends quite a bit of time talking about environmental conservation and compatibility of uses and those things need to be balanced out as well. Ms. Heller commented senior housing certainly is the use that we want to accommodate in the city. It is most appropriately accommodated in the core of the city where seniors would be able to use public transit and they would be in a more walkable area. They might not need the car as much; a variety of uses would be available to them. She would agree that we want to support senior housing but we want to do it in a location where it is more appropriate. There is not much land left in the city that is true. We try to encourage development and we still try to do that in the core of the city. Ms. Heller affirmed we have some abandoned properties, we have opportunities for adapted reuse, there are opportunities in the core of the city and that is really where we want to encourage new development to occur. Those are some of the things we are looking at. We still stand with our recommendation that the area not be rezoned to R-RC and we feel that a Rural Residential is the appropriate zoning for the property.

President Waldron acknowledged we have all the information currently from the Administration as well as from the presenter at this point. He noted for anyone watching at home that we are not taking any action or vote this evening, we are just receiving information from the proposed developer as well as the Administration. At a future date Council will be having a vote on this issue but this evening we are just taking in that information.

Ms. Crampsie Smith thanked them for the presentation and added while she certainly has concerns about the environmental impact she was curious about the need for affordable housing which was talked about. These individuals will be between 70 and 75 years of age and she assumes they will be on a fixed income. She was wondering what the average cost would be per month of the units and what would that include or exclude.

Mr. Atiyeh first wanted to respond to the sensitivity of the development site. If there are permitted uses on this site, a church is a permitted use, single family homes are a permitted use. If he puts a church in here he could still consume the same level of disturbance and maybe more or if he goes with 10 single family home. The disturbance we feel is less than what is permitted by right for the independent living because we are going up 4 stories. If Council denies this project, which is their right to or not, we will still develop this site, there will still be a disturbance. He wanted to make sure everyone understands that. Number two, our rates at Saucon Valley Manor are \$1,995 for an independent living studio and \$2,495 for a one bedroom and our two bedroom units are \$2,995 for independent living and that includes all utilities, housekeeping once a week, all three meals, breakfast, lunch and dinner. It also includes chauffeur service to events. We take them out to the casino, to bingo, to the Promenade Shops. It also includes lawn care. So it is basically one fee that we are providing for. They need to handle their own medications, if not we will have the club house for medical treatment and we will sub contract with a geriatric doctor. Our rates are so affordable we beat Country Meadows and are 20 to 30% more affordable than any other independent living facility in the region. Most of our residents that have fixed incomes realize there are no extra charges. Even in our personal care center we have been known to have no extras, it is just the rent and that is it. The only time you would get a rent increase is if you need personal medical care. In comparison the Monocacy Apartments in center city, those big high rises, they are right next to the Monocacy Creek although it does flood once in a while it is a beautiful place to live. We would have the same sort of area but in the suburbs. We are very affordable as far as independent living.

Mr. Callahan asked the average cost of the units in this proposed building.

Mr. Atiyeh noted he would say \$2,795 that would be the average cost and that includes three meals, utilities, housekeeping, and activity events.

Mr. Callahan wondered what it costs at Kirkland Village and Moravian Village.

Mr. Atiyeh stated at Kirkland Village there is no independent living and one bedroom is \$5,995, which is \$2,000 more than they are and also there is a buy in fee. As for the Moravian Village they are around \$4,995 for independent living and there is also a buy in of \$80,000 to \$100,000 dollars. Country Meadows which is private and in Bethlehem Township they are up in the \$5,000 dollar range. Because we are family run we do not have CEO's sitting around the desk making \$500,000 a year. Mr. Atiyeh explained he makes \$140,000 dollars a year, that is his salary and he runs all the show. His wife is an administrator and his daughter is an administrator, we

work hands on and we give affordable rates and have been successful for 22 years. We keep our overhead low and give affordable independent living.

Mr. Callahan knows there has been a lot of discussion about being in the floodplain versus the flood zone. He asked how many acres the total property is.

Mr. Atiyeh stated 10 acres.

Mr. Callahan asked if he has the right to build 10 properties on that property right now.

Ms. Heller informed she has not done an analysis but he could probably build 10 single family detached dwellings. It is probably close to the maximum he could build.

Mr. Callahan wondered if those homes were built does that property have to be built up and would the city require him to build up the property. Mr. Callahan asks if he builds this property is he bringing dirt in from another site.

Mr. Atiyeh noted that is a good question. We will raise the grading by law because of the floodway that is what the federal government. So your first floor has to be two feet above the 100 year floodplain so we will be above it by law.

Mr. Callahan asked how far above it.

Mr. Atiyeh stated two feet above the floodplain.

Mr. Callahan observed they will have the first floor where they walk in two feet above the 100 year floodplain.

Mr. Atiyeh stated that is correct.

Mr. Callahan asked if it is like that now or do you have to remediate the site.

Mr. Atiyeh informed they have to raise the grade up a little bit in construction, whether we use fill or whether we use concrete. Our building footprint is so small and he asked Mr. Berg what the footprint is.

Mr. Berg stated we are at 182 feet 6 by 84 feet and it is about a 15,330 square footprint.

Mr. Atiyeh noted with 15,000 square feet and if I have 10 single family homes and built a 2,000 square foot rancher, which is average the 10 ranchers would have more of a building footprint than what this building would have because we are going up 4 stories. So the impact is less by building this independent living building if I put 10 2,000 square foot ranch homes. He added that most ranch homes that are being built now are 3,000 to 4,000 square feet. His neighbors across the street those are twin homes and are about 2,500 to 3,000 on one floor. We would end up being double the size of concrete in the ground if he built single family homes in this location. It will be less impact with this project on that site than if he were to put in permitted single homes or a church in there.

Mr. Callahan remarked he lives right next to the Moravian towers, he is the last condo on Main Street and some of them like it and some do not, some wish they were out in more of a rural area. There are not too many places for them to go and that is a shame. He is torn between this. To be honest, he did not know that they had the ability to build up to 10 single family homes over there which changes the calculation on his part. Mr. Callahan like many others on Council do not agree with some of the proposals that Mr. Atiyeh came forward with on the Dewberry site but he will say that this is probably one of his better projects that was put forward. It is in an area where the other residents do not want it right now. He also has a heart for older people who are looking to be in a quieter area other than downtown Bethlehem. Mr. Callahan still has other questions about this and will have to do more research before we vote on it. The flooding that happened last month, how high did that flooding get at the proposed site?

Mr. Atiyeh remarked he was not there but it went up pretty high and covered a large portion of the site. Most properties are by water. If you live by the ocean it is expensive and if you live by a river it is expensive. This is high quality living and a few times you get water up and back your cars out. Our residents here if we know there is a hurricane we can move their cars over to his other campus. We will protect them that is our job. We own the campus and we are responsible for these residents 24 hours a day. We have security, we watch them, we have medical alert pennants for them and they can press the button if they are confused it will ring a bell at the main campus. Living next to Saucon Creek it is beautiful and peaceful. If water does come up they can park their cars at Saucon Manor. If he would build 10 single family homes by right, those people would have to worry about the floodplain. The trade off and impact between the 10 single family homes he can build and the independent living, it would be more people but it is residents of the city that want to live in a quiet neighborhood.

Mr. Callahan asked the minimum age that is allowed to move in there.

Mr. Atiyeh stated they allow 65 and up, if someone had a stroke and they are 65 we will bring them in but the average age for the independents is 75 up to 85-90 years old. We have people move in from New Jersey at Saucon Manor because our rates are cheap. We have no buy in fees. If you do not like our services you just leave, it is a month to month. Our care is good and people stay. One other thing he wanted to mention is the idea of Center and Dewberry he got that site originally for assisted living 15 years ago and the psychiatric hospital was not him, he does not operate them, this was another company. He is a developer and offered the site to them because his assisted living marketing that time did not work. He never threatened the city, he loves the city. He had a potential buyer, Acadia that wanted to build a psychiatric hospital. That is not his business, he is a developer and they are healthcare providers and the biggest personal homecare provider in the Lehigh Valley but now we are going to independent living because the baby boomers are not ready for personal care yet.

Mr. Callahan asked Mr. Berg to go to page 20 in the proposal.

Mr. Berg explained page 20 shows the elevation of the building and it also shows the profile cut through Creek Road that shows the evergreens being a buffer.

Mr. Callahan noted they are saying the site line is the dotted line.

Mr. Berg confirmed the site line is the dotted line that is tilted up from the grade that is correct.

Mr. Callahan asked where the creek is from there, is it to the right?

Mr. Berg explained the creek is a good distance to the right of that building.

Mr. Callahan observed the residents that are complaining are living to the left of the tree line, is that correct?

Mr. Berg noted that is correct, across Creek Road.

Mr. Atiyeh remarked there are 6 twin homes that are in our backyard and one is a rental. He added that 6 people in their backyards are going to look out at this building; it would be only 6 of that whole twin home community. It is also only their rear yards that look at us. So there are 6 neighbors that are concerned with that site line but it is all covered with trees and we will also buffer it. The neighbors have a legitimate right to complain but ultimately you will have 40 residents that would be happy living there than the 6 people who are upset about looking up and out over trees.

Mr. Callahan asked how far the existing apartment is down there away from the proposed development, the other big buildings that are down there.

Mr. Atiyeh remarked right next door to them is a 4 story apartment complex that J. B. Reilly built that Council approved and rezoned for that. They moved into this community and saw the 4 story building knowing that was there and they moved next to it at that time. This whole corner is a high density corner between Society Hill and the apartment complex. Those twin homes, he wonders what the height of those are.

Mr. Berg explained he would say they are more along the lines of 35 feet because they have tall story heights and walkout basements.

Mr. Atiyeh commented they are huge and even our neighbors that are complaining about our height are sitting in the 35 foot height to the top of their building. It must be that they do not want anything going in there.

Mr. Callahan acknowledged he appreciates the answers and he is done with his questions as of now.

Mr. Arden mentioned he wanted to answer a few questions that Mr. Callahan raised. It was questioned about the fill material and if it will be brought off site. As he said earlier in the presentation we will have to mitigate the impact of the construction. He pointed out that the parking lot and the building will be 2 feet above the floodplain, not just the building. So that you will not have even the flooding of the parking lot, which would be a concern because of evacuation and so forth. It may be necessary to remove enough material elsewhere on the site to mitigate the impact of the floodplain such that the fill material would be on site. So there has not been an analysis done but there is a good chance that all the material necessary to raise the grade where the parking lot is could come on site. Mr. Arden affirmed he wanted to clarify the

discussion about the floodplain. He recognizes there is the desire or goal to not encroach on the floodplain but he has to point out that the zoning ordinance permits an encroachment on the floodplain. It specifically permits it and provides for the necessary mitigation. He would submit that between that and the necessary environmental approvals, we will have to respect the environment as part of the approval of this project. Mr. Arden pointed out in comparing two uses and having been around this business for over 40 years we all know that when there are single family residential units the encroachments that occur over time are unbelievable in terms of people taking more and more land. He would suggest that an entity like this is going to be more responsible. What you see is what is going to be built, you put 10 single family homes on that property, and it can be done, you have the issue of whether people begin to encroach and impact the floodplain even greater than what would result from this. That is because of the fact that people will take over land that is not really theirs and begin building things. Yes, you can enforce it but he has been around long enough to know that gets nasty over time when you are trying to enforce things on your residents where they have taken liberties with a piece of property. Mr. Arden would say in addition to the impervious cover there is consideration of what 10 single family homes might do in the long run in terms of the environmental impacts, floodplain or otherwise. Those are a few comments to try to clarify a few things that Mr. Callahan had raised.

Mr. Callahan stated he appreciates the comments. All of us have some hard thinking to do in the next days ahead. He does respect the work Mr. Atiyeh has done with the elderly. Mr. Callahan noted his father-in-law passed away a few years ago and in the last years of his life it was very expensive for him to find any type of amenities for him to live in. He ended up having to go to the Lehigh County assisted living place and that was not exactly an ideal situation. Mr. Callahan thanked them for the presentation and noted he has some homework to do in the next few days.

Mr. Atiyeh affirmed he would like Council to tour his site, if it is legal for them to walk the site at their convenience to walk that neighborhood to understand the serenity and tranquility and peacefulness of living there and look at the neighbor's complaints. He pointed out that Saucon Park is across the street which is a beautiful park.

President Waldron thanked Mr. Atiyeh for the invitation but we have some laws that prohibit us getting together as a group to talk about issues like that. If any members of Council were interested in a private tour they could reach out to you and that would be permissible but as a group we are not able to get together in that regard.

Mr. Callahan asked when this will come back to Council.

President Waldron reported the First Reading of the ordinance will be on October 6, 2020 so that will be in three weeks.

Mr. Callahan asked Mr. Atiyeh to send an email to the City Clerk and he will be in touch with him because he would like to take a look at it before making any final decisions.

Mr. Atiyeh offers that to any other Council Members. He will send his email with contact information and they can walk the site at their convenience, morning or evening. Once you are down there you will realize it is a great place to live.

President Waldron observed there was a little discussion about some of the other permitted uses that are currently allowed. He does not anticipate that Ms. Heller could answer it this evening but hopefully have some more information before the next meeting. That was the talk about 10 single family homes or a church being built on that property. If that is accurate there is still a process that would have to be followed to get approval for that as far as navigating through Planning and Zoning and what some of the requirements might be for a project like the two that were mentioned, the church or 10 single family homes.

Ms. Heller stated she will look into that.

Public Comment

Robert Ashford, 2059 Forge Run, explained he lives directly across from the proposed site. He thinks one of the things that Council really has to look at is that Mr. Atiyeh has been completely disingenuous about the 10 homes being built there, they would ask for variances and FEMA would not even allow homes under insurance regulation, you would need insurance for those homes. He moved to his home in 2018 and before he bought the home and spoke to Susan Borzak who was the Zoning Officer and we discussed the zoning on the property. He wanted to know the status of that land and could it be developed and what could be developed there. She had explained to him that it was very unlikely that anything could be built there because of the floodplain. He would ask Council to really take a look at the flooding pictures that were sent to them, there is video as well as pictures on what is called the savecreekroad.org site that was put up. The entire property was completely under water and the home that is there now on the property was completely surrounded by water and flooded. They mentioned that there will be trees for a buffer and again that is disingenuous because all these homes have porches that look directly onto that property so you would completely see that home. The zoning cannot alter the central character of the property and when Mr. Atiyeh said there are only 6 homes we have sent to Council a petition of over 700 responses of people that have requested that this not be rezoned and that the other submission by Mr. Atiyeh for 10 homes and asking for variances for 10 homes not be granted as well. Mr. Ashford noted that John Dugan is the attorney who represents many of the neighbors. As a resident Mr. Ashford purchased this property knowing the zoning should not be affected by someone that purchased the property for dramatically lower cost and has been noted around the Valley that he buys land on the cheap and then tries to get a rezone for his own benefit at the taxpayer's expense for one person to financial benefit of this rezoning.

Shelagh Cummings, 1919 Creek Road, informed she and her husband live in the 16 acre parcel immediately adjacent to this property to the north. Mr. Atiyeh references several of the higher density properties in the area but he completely forgets to mention the rest of Creek Road. As longtime Creek Road property owners and residents, and as the immediately adjacent northern neighbors of the property in question, we are adamantly opposed to this zoning map amendment request. She will not repeat things about the floodplain and she does not think it is essential because it was stated already. Adjacent to the property in question at the south end are the Hellertown Wetlands and the historic Heller Homestead; to its northwest is the old Mill House associated with early settlement, and there are several other historic homes along the Creek Road corridor. Large areas of vegetation on the property in question are much the same as in the adjacent and publicly-held wetlands in the adjacent boro of Hellertown, and the City of Bethlehem's "natural features" map that indicates the presence of these wetlands that stretch along this property and ours. Section 604 of the Pennsylvania Municipalities Code states that

"The provisions of zoning ordinances shall be designed: to promote, protect, and facilitate among other things the preservation of the natural, scenic, and historic values in the environment and preservation of forests, wetlands, and floodplains. This property sits at the confluence of the City of Bethlehem, Hellertown Borough and Lower Saucon Township, and we feel what is done at this property has multi-municipal impacts. Rezoning for higher density adds a burden to City services such as Fire and Police; particularly at the southernmost tip of the city. Even if the developer proposed to build "above the floodplain" she does not think you are allowed to use wetland soils to raise the property, you will be then directly impacting all of us who are downstream. Even if you build above the floodplain people occupying the structures could become stranded during a flooding event. The traffic challenges in this area are also already well-known to the City and its municipal neighbors. Any increase in housing units would contribute to what is already challenged. This is a 14 foot wide country road. There will be a lot of employees that Mr. Atiyeh does not mention in his traffic impacts. Some of the 400 employees that he has will be coming down Creek Road. Almost 20 years ago, many members of Bethlehem's City Council had occasion to become personally familiar with this area of the city due to the development pressure on the west side of the road which ended up being Stever Mills which we appreciate. At that time, it was publicly recognized in verbiage built into Article 1310.01 in the city's Zoning Code that "this specific area is uniquely situate and is rural in nature and (having) historical significance to the City." These historic and rural characteristics are under increasing pressure and they are treasured by the residents of this community and others that utilize this corridor. Ms. Cummings informed her husband is a tree farmer and we do a lot of screening of properties and you are not going to screen a 40 foot building with 30 foot evergreens but especially to the uphill Stever Mills residents not living in the floodplain. Also it is not Saucon Park that sits adjacent to this property, it is Water Street Park and you would know that if you lived here in our neighborhood. It is a sensitive area. The Lehigh Valley Planning Commission recommended that redo of development should "maintain regional character by preserving environmental, historic and scenic assets that have attracted many to our region." It also specifically promotes sensible development that mitigates climate change. Look what is going on in the world. To allow higher density zoning or additional building in this setting would be completely deaf to the fact that communities worldwide are desperately trying to reclaim and restore habitats and wetlands and reduce encroachment into the river eco systems and floodplains. This proposed zoning change is completely inconsistent with both the Lehigh Valley Planning Commission and City of Bethlehem's Comprehensive Plans. It is inconsistent with the character of the surrounding area, and there was no error made when this neighborhood was originally zoned Rural Residential. Any zoning change or variance made to allow greater density would alter the essential character of a neighborhood already under pressure, and would be a detriment to the public welfare of all who use Creek Road for either residence or recreation, including Lehigh University and local high school track teams. We should take the long view when considering the stewardship of Bethlehem and not make short-sighted concessions for one person's desire to increase profits by degrading the environment. Please vote no to any change to zoning or variance requests for the property, not doing so would do a disservice to the people who appreciate or live in the Creek Road community. She thanked Council for their time.

Elizabeth Behrend, 637 Hamilton Avenue, remarked she is speaking on behalf of the Bethlehem Environmental Advisory Council (EAC). We submitted a letter in strong opposition of the development. The EAC strongly recommends that a variance not be granted for the reasons stated in the letter. The property is located in the 100-year floodplain, an area susceptible to flooding and crucial to storm water management. In keeping with the City's current mandate

under the Municipal Separate Storm water Sewer System (MS4) program. The existing property, in a mostly undeveloped state, acts to slow and retain storm water and provides a filtration system for pollutants contained in storm water. As climate change causes rain events to become more frequent and severe, allowing floodplains to function and absorb floodwaters is critical and is in keeping with the goals of the Climate Action Plan that the City is currently creating. This natural storm water control system is particularly important because the site borders Saucon Creek, a "Class A Trophy Trout" stream. The proposed development would add impervious area to the property, including access roads and driveways. Contaminants from parking areas could be carried to Saucon Creek in storm water runoff. Large volumes of fast flowing storm water can scour streambanks and destroy riparian buffers, which shade and thereby cool the water, as well as provide unique wildlife habitat. The property itself appears to be part of a wildlife corridor. Saucon Creek is a valuable resource to Bethlehem City. Residents and visitors enjoy fishing, picnicking, walking, and biking along its banks in nearby Saucon Park. We advise the Bethlehem Zoning Hearing Board and City Council not to allow a variance that has the potential to negatively impact Saucon Creek and increase flooding, including to the proposed dwellings. This letter is submitted by Lynn Rothman, the Chair of the EAC and the rest of the EAC Members.

John R. Vivian, Jr., 2053 Forge Run informed he is on the Board of the Stever Mills and is representing the Board as well as himself as a citizen. He submitted to the Planning Commission and had hand delivered to Council a letter from Brian Monahan a colleague of his, and it is a complete submission with a petition attached as the last exhibit to that which was updated and has more than 700 signatures and Mr. Ashford spoke to that. He first wanted to talk to the law and how he views this legally. We do not use the term spot zoning anymore but essentially that is what the request comes down to. A rezoning request under law is very different from getting a variance and the courts have said unanimously that one cannot rezone as a guise of not being able to get a variance and it is very unlikely he will get a variance on this property so he has decided to rezone. The other thing clear is that people have talked about the financial impact and as he pointed out in his letter Mr. Atiyeh or whoever Creek Investors are purchased this property in January 2018 for \$215,000 dollars but then listed it for sale one year later in December 2019 for \$799,000 dollars, this can be looked up and there is a plan for 5 twin homes which is a variance he has now applied for before the Zoning Board. He too loves seniors and guesses he is a senior now unfortunately but it is not about that and it is not about good deeds to the community, it is about whether or not legally if the city should go away from a well thought out zoning ordinance and grant specific zoning just because he had a problem with the property which he knew he had when he purchased it. The second thing is there was a lot of talk about what is in the flood zone and what is in the floodway and he attached the permit from FEMA, the entire area is designated a special hazard flood area and that raises a number of issues. Number one is insurance, you would not be able to get insurance in there for a number of reasons. The argument he heard today about putting 10 single homes on it is very interesting because you are only allowed to put in there even with a variance a certain amount of homes on a certain amount of acreage and we are acting like the 10 acres is all developable, it is not. You cannot put 10 homes in there and create that kind of footprint, it just will not work. The other thing is that FEMA absolutely prohibits any medical facility in these types of areas. The access during flooded times is not good for a medical facility and equally as important medical facilities have drugs in them that are necessary to treat people and other toxic substances which during a flood got released into the water. Mr. Vivian noted it cannot be understated that there is even an Eagle that hunts in that area now which is up further on the Bethlehem part of the bike path. He has seen Egrets there and Osprey's there, the deer run through there. It is a beautiful area but if this is developed there

is a problem with the impervious surface. If you take a look at the video and the pictures of the last flood that occurred here you would not walk to the creek, you could swim to the creek and probably kayak. He urges Council to look at those videos because the problem is the water coming from upstream that looked like the Delaware River from the Grist Mill all the way down running through that property. The home that sits on it now has been flooded a number of times over the years so it just cannot take any more water. Mr. Vivian noted under normal circumstances he would have been given the right to question these engineers of some of the things they have said. He will point out to say these are older people and do not drive their cars, discount visitors, discount service people, discount employees, and also there would be traffic. There are speed bumps there, it is a country road, the Lehigh students use it and everyone walks it so you have to be careful. Increasing the traffic more just is not going to help. The other thing about putting development in there is that there is a ditch that runs between Creek Road and the property that he is seeking to develop. In order to put driveways in there, whether what is built, they will have to bridge that or block that ditch and there is storm sewer runoff and despite that being there Creek Road still flooded last time and had to be closed by the City of Bethlehem. So now that will be taken away and you will have to raise it and have to divert that storm water off of those impervious surfaces. Right now it is planned for a 60 car lot and you get some of the problems that the previous person commented on. Mr. Vivian understands they will put utilities on the ground floor or someplace and that is crazy with the flooding. The number of pedestrians on that road is incredible. There are reasons why the Borough of Hellertown and Saucon do not want this built. For all those governing bodies there is municipal impact. He understands Mr. Atiyeh's claim that it is a beautiful place and that he can run meals in, but he can do that at other locations also. To compare it to the Monocacy or any others, they do not flood like this, none of them do. It is dangerous. There should be a real traffic study done and he noted at the last Planning Meeting he thinks the engineer had it down to 4 cars an hour on Creek Road but that is ridiculous. His engineer and architect have said things that are simply not true, particularly with traffic, building, and flood zones. He had a number of exhibits and would point out that Saucon Creek is one of the few A plus trout streams in Pennsylvania that actually runs through an urban area. It is pristine and you cannot dig up fill on that. When you do it will be an environmental disaster and be too late when it happens. This is not only about 6 residents complaining about their view being affected, we are not in a flood plain, and they are in a flood plain. It is his belief under the law rezoning this parcel just for the benefit of Mr. Atiyeh's project is flatly against the law. If Mr. Atiyeh gets to do a rebuttal as he requested to do then so do all of the public. As an objector he is supposed to be under equal footing with them although these are trying times but he has had his say and if he is going to bring up other things then the public should be able to comment again.

President Waldron stressed that we do have a five minute time limit which he did not enforce and did not make mention of previous of Mr. Vivian but he will let future callers and speakers tonight that we do have a five minute time limit for public comment. We are still accepting comment to City Council on the public hearing of 2105 Creek Road rezoning.

Lynn Rothman, 870 Wafford Lane, pointed out as the previous caller alluded to Creek Road has been flooding itself in storms this summer and if any residents have a medical emergency during a storm event they may be inaccessible to emergency vehicles. This could create a safety hazard for the development.

President Waldron informed the zoning map amendment ordinance will be placed on the October 6, 2020 Council agenda for First Reading and a vote.

President Waldron adjourned the Public Hearing at 8:30 pm.

2. APPROVAL OF MINUTES

August 4, 2020.

3. PUBLIC COMMENT (on any subject not being voted on this evening - 5 Minute Time Limit)

Parking Authority Problem

James Gasper, 10 West Union Boulevard, stated he will be speaking for his wife Erin Brady. His wife has called the Bethlehem Parking Authority over several issues and concerns and has received nothing except ambivalence and the same disregard. We have noticed this from several residents who are the property owners and taxpayers in the City of Bethlehem. Two of the main points we have is the allotment of street parking in the 2 hour meter area is 2 permits per unit. When you have apartment buildings they will issue more permits than there are actual physical parking spots on the street. He added regardless of what the study might say parking is a constant competition and the 2 hour parking zone does not benefit the actual residents who own the properties. The other problem we have is besides paying the taxes in the City of Bethlehem for our property we must also pay additional fees of \$10 dollars a year per vehicle for the privilege of parking in front of the building in which we own. Besides that he also purchased a parking pass for a parking deck at \$70 dollars so he pays close to \$1,000 dollars a year to park in front of a property that they own. Mr. Gasper related he has been going to the Parking Authority to try to get a resolution or speak to somebody but he has heard nothing. He is asking that City Council put in consideration to have a community or resident advocate on the Board and be a voting Board member of the Bethlehem Parking Authority to have the issues of the citizens and residents in the city addressed.

4. PUBLIC COMMENT (on ordinances and resolutions to be voted on by Council this evening - 5 Minute Time Limit)

None.

5. OLD BUSINESS

- A. Members of Council
- B. Tabled Items
- C. Unfinished Business

6. COMMUNICATIONS

- C. *Director of Public Works - Recommendation of Award - Keiko Tsuruta Cramer, ASLA, Principal WRT Design - S. New Street Streetscape Enhancement Project*

The Clerk read a memorandum dated September 2, 2020 from Michael Alkhal, Director of Public Works recommending a contract with Keiko Tsuruta Cramer, ASLA, Principal WRT Design for additional geotechnical service related to the South New Street Streetscape Enhancement Project. The estimated completion date is December 31, 2020. The cost is \$10,500 with no anticipated renewals.

President Waldron stated Resolution 10 B is on the agenda.

D. Director of Water and Sewer Resources – Recommendation of Award – L. B. Industries, Inc. – Wastewater Treatment Plant Settling Tank Improvements Project

The Clerk read a memorandum dated September 3, 2020 from Edward J. Boscola, Director of Water and Sewer Resources recommending a contract with L. B. Industries, Inc. for work related to the WWTP Settling Tank Improvements. The term of the contract is 240 days from the Notice to Proceed to Substantial Completion and 270 days from the Notice to Proceed to Final Completion. The cost is \$1,526,759 and there are no renewals.

President Waldron stated Resolution 10 C is on the agenda.

E. Director of Budget and Finance – 2021 Budget – Pension Minimum Municipal Obligations

The Clerk read a memorandum dated September 3, 2020 from Mark W. Sivak, Director of Budget and Finance stating the 2021 Budget Pension Minimum Municipal Obligations for Police, Fire, and the Pennsylvania Municipal Retirement System.

President Waldron stated this is for information only.

F. Director of Water and Sewer Resources – Recommendation of Award – Cale of Fort Myers, Inc. dba North End Electric – Wastewater Treatment Plant Effluent Pumps

The Clerk read a memorandum dated September 8, 2020 from Edward J. Boscola, Director of Water and Sewer Resources recommending a contract with Cale of Fort Myers, Inc. dba North End Electric for work related to the WWTP Effluent Pumps. The term of the contract is 120 days from the Notice to Proceed. The cost is \$177,327 and there are no renewals.

President Waldron stated Resolution 10 D is on the agenda.

G. City Solicitor – Use Permit Agreement – Mount Airy Neighborhood Association – West Side Farmers Market

The Clerk read a memorandum dated September 9, 2020 from City Solicitor William P. Leeson, Esq. with an attached Resolution and associated amendment to a Use Permit Agreement. The Permittee is Mount Airy Neighborhood Association and the subpermittee is Fegley Enterprises, Inc. The event is the West Side Farmers Market. The amendment adds the following dates to the original UPA: October 17, 2020, October 24, 2020, and October 31, 2020. The agreement covers the Bethlehem Rose Garden.

President Waldron stated Resolution 10 E is on the agenda.

H. *City Solicitor – Use Permit Agreement – ArtsQuest – 2020 Christkindlmarkt including other holiday activities*

The Clerk read a memorandum dated September 9, 2020 from City Solicitor William P. Leeson, Esq. with an attached Resolution and associated Use Permit Agreement. The Permittee is ArtsQuest and the event is Christkindlmarkt. The agreement covers Thursdays and Fridays from 10:00 am to 6:00 pm and Saturdays and Sundays from 10:00 am to 8:00 pm. The premises is First Street from Polk Street to the eastern terminus and Founders Way between First Street and Second Street.

President Waldron stated Resolution 10 F is on the agenda.

I. *Assistant City Solicitor – Lease Agreement – Proposed Small Cell Wireless Lease with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility*

The Clerk read a memorandum from Matthew Deschler, Assistant City Clerk with a proposed resolution authorizing the Mayor and Controller to execute a lease with New Cingular Wireless PCS, LLC d/b/a AT&T Mobility. The proposed lease, which is also attached, governs the installation and operation by New Cingular Wireless of small cell wireless installations in the city.

President Waldron stated a proposed approval resolution will be placed on the October 6, 2020 Council agenda.

J. *Director of Purchasing – 2020 Vehicle Auction*

The Clerk read a memorandum from Sandra Steidel, Director of Purchasing to which is attached a list of vehicles to be sold at the next on-line auction to be held within the next 60 days.

President Waldron stated if Council has no objection the property listed; the same may be added to the on-line auction. If Council would like to discuss a specific item, the same shall be removed from the list and discussed at the next Council Meeting on Tuesday, October 6, 2020. President Waldron queried if any Member of Council would like to discuss a specific item, have it removed from the list, and discussed at the next City Council Meeting on Tuesday, October 6, 2020.

President Waldron stated a memo will be sent to the Purchasing Director that City Council has no objections to the property listed.

7. REPORTS

A. *President of Council*

B. *Mayor*

Retirement Incentive

Business Administrator Eric Evans explained on Friday the City announced the retirement incentive and Council was notified via email. The last time this was offered was 4 years ago and at that time it involved employees aged 55 or older at the end of the year with 5 years of employment. This time around we moved it to 60 years of age and 10 years of employment. He explained 51 employees are eligible and meetings were held today both at 9:00 am and 2:00 pm for question and answer sessions. All 51 of those employees will have until October 26, 2020 to make a decision on that incentive; they will deliver a report at that time.

CDBG/HOME/CDBG CARES Act funding

Mr. Evans stated he has an announcement from our Director of Community and Economic Development, Alicia Karner. The City of Bethlehem is initiating planning for the 2021 Annual Action Plan as a part of its application for funding to the U. S. Department of Housing and Urban Development. The Community Development Block Grant for fiscal year 2021 is estimated at \$1.3 million dollars and HOME funds are estimated to be \$400,000 dollars. These funds may be used to assist persons with low to moderate incomes, remove slums and blight, or address urgent needs. The First Public Hearing will be held tomorrow at 6:30 pm. The Public Hearing will be conducted virtually as an on line meeting service and meeting information is on the city's Community Development website. Additionally the city was just informed it will be receiving additional \$649,643 dollars in CDBG CARES Act funding. This is in addition to the \$796,862 dollars received earlier this year. So that is a total of nearly \$1.45 million additional CDBG dollars this year. As we receive additional information on this latest round of CARES Act funding we will be sure to keep Council informed.

Police Chief

Mr. Evans remarked Mayor Donchez wanted to provide an update on the process of nominating a new Police Chief. We would like to share some information to Council that it is under way. The question of internal versus external search, this is an internal search and there are several reasons for that. The Bethlehem Police Department is not dysfunctional; there is no corruption within the ranks. The fact that this is an appointed position the reality is that there will be a new Mayor in 15 months that would very strongly limit candidates with no guarantee beyond that whether they would have to move themselves or reroute a family. The city to our west has tried a national search twice with Chief Kuhn and Chief Fitzgerald and that experience provides recent evidence that national search does not guarantee anything. Lastly and more importantly Third Class City Code requires the position to be filled internally unless it is deemed there is no qualified candidate. Mr. Evans noted we do have 4 impressive candidates who we will be interviewing this week. Mayor Donchez has established a committee he will lead with Mr. Evans, Chief of Staff Alex Karras, City Solicitor Bill Leeson, and Director of Human Resources Michelle Cichocki and in addition we wanted to add a police expert, someone with knowledge in law enforcement and someone who knows Bethlehem but not a department insider so they could remain objective. Mr. Evans noted Mr. Ed Colón fit that mold perfectly and has agreed to join the committee. Mr. Colón grew up in Bethlehem in the projects and rose to Lieutenant in the Pennsylvania State Police and was hired to become Chief of Police for Upper Macungie. He built the department and recently retired and he has often attended our police ceremonies. He is highly respected and as a Latino would be able to provide insight through that lens. We are happy to have him with us for these interviews. Last week the Mayor asked any member of the police force with the rank of Lieutenant or higher that was interested in being considered as the

role of Chief to submit a cover letter and resume by Noon on Friday. He noted that 9 members were eligible and 4 applied and all 4 have very strong credentials, references, and reputations. Interviews will take place this week, 2 are set up for Wednesday, and 2 are set up for Friday. The candidates will be interviewed in the order that their paperwork was received. It is the Mayor's decision and it is his intent to make that decision and announcement on Monday, September 21, 2020. The nomination would then be submitted to Council by Thursday, October 1, 2020 so then it would be on the agenda for a Council vote on Tuesday, October 6, 2020.

8. ORDINANCES FOR FINAL PASSAGE

A. *Bill No. 20-2020 – Amending 2020 General Fund Budget – Budget Adjustments*

The Clerk read Bill No. 20-2020 – Amending 2020 General Fund Budget – Budget Adjustments, sponsored by Ms. Crampsie Smith and Mr. Colón and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, AMENDING
THE 2020 GENERAL FUND BUDGET

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. Bill No. 20-2020 now known as Ordinance No. 2020-19 was passed on Final Reading.

B. *Bill No. 21-2020 – Amending 2020 Capital Budget for Non-Utilities – Budget Adjustments*

The Clerk read Bill No. 21-2020 – Amending 2020 Capital Budget for Non-Utilities – Budget Adjustments, sponsored by Ms. Crampsie Smith and Mr. Colón and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, AMENDING
THE 2020 CAPITAL BUDGET FOR NON-UTILITIES

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. Bill No. 21-2020 now known as Ordinance No. 2020-20 was passed on Final Reading.

9. NEW ORDINANCES

A. *Bill No. 22-2020 – Amending Part 13 of the Codified Ordinances – Zoning Ordinance to Enable Grocery Store Uses by Right in Selected Zoning Districts of the City*

The Clerk read Bill No. 22-2020 – Amending Part 13 of the Codified Ordinances – Zoning Ordinance to Enable Grocery Store Uses by Right in Selected Zoning Districts of the City, sponsored by Mr. Waldron and Mr. Colón and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF
LEHIGH AND NORTHAMPTON, COMMONWEALTH OF
PENNSYLVANIA, AMENDING PART 13 OF THE CODIFIED
ORDINANCES OF THE CITY OF BETHLEHEM, ZONING
ORDINANCE TO ENABLE GROCERY STORE USES BY RIGHT IN
SELECTED ZONING DISTRICTS OF THE CITY OF BETHLEHEM

President Waldron noted he wanted to reiterate his points from the public hearing a few weeks ago. He cannot speak for all of Council but he got the general consensus that this was the feeling that this is a wide overreach for the need of that specific site to change all of the zoning across the city in one of the largest zoning districts. He believes this is unnecessary and too much for this specific project. He thinks there could be a path forward with this specific use of the site through the Zoning Hearing Board and he encourages the applicant to pursue that but he will not be supporting this ordinance this evening.

Mr. Colón added he will not be supporting this tonight. Just going off of the presentation last time we had heard from the parcel owner and he had referenced Center Street as Route 512 Highway. Anyone who drives from the Monocacy Creek into the City of Bethlehem will see there really is no commercial development along that corridor. Center Street and 512 is not Stefko Boulevard. From the Monocacy Creek until you get to the one way at Elizabeth Avenue you are really only looking at the orchard, Rudy's Diner and a few other small book store commercial spaces. Mr. Colón mentioned the rezoning of this district will allow the use of a grocery store city wide in the Institutional zone, that would be an overreach and also he does not think that is something we need to allow as a permissible use for the zone citywide for something that does not match the character of that neighborhood. Saying it mirrors other similar tracts in the city, he does not agree with that so he will not be supporting this tonight either.

Voting NAY: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. Bill No. 22-2020 failed by a vote of 0-6 and there will be no Second Reading

10. RESOLUTIONS

A. *Authorizing 2021 Edward Byrne Memorial Justice Assistance Grant (JAG)*

Ms. Grace Crampsie Smith and Mr. Waldron sponsored Resolution No. 2020-149 that authorized the Police Department's application for the 2020 Edward Byrne Memorial Justice Assistance Grant (JAG) in the amount of \$41,034.00. The grant will be used by the Police Department to continue improvements in computer hardware and software.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. The Resolution passed.

B. *Approve Contract – Keiko Tsuruta Cramer, ASLA, Principal WRT Design – South New Street Streetscape Enhancement Project*

Ms. Crampsie Smith and Mr. Waldron sponsored Resolution No. 2020-150 that authorized to execute an agreement with Keiko Tsuruta Cramer, ASLA, Principal WRT Design for geotechnical service related to the South New Street Streetscape Enhancement Project.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. The Resolution passed.

C. *Approve Contract – L. B. Industries, Inc. – WWTP Settling Tank Improvements Project*

Ms. Crampsie Smith and Mr. Waldron sponsored Resolution No. 2020-151 that authorized to execute an agreement with L. B. Industries, Inc. for work related to the WWTP Settling Tank Improvements Project.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. The Resolution passed.

D. *Approve Contract – Cale of Fort Myers, Inc. dba North End Electric – WWTP Effluent Pumps*

Ms. Crampsie Smith and Mr. Waldron sponsored Resolution No. 2020-152 that authorized to execute an agreement with Cale of Fort Myers, Inc. dba North End Electric for work related to the Bethlehem WWTP Effluent Pumps.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. The Resolution passed.

E. *Approve Use Permit Agreement – MANA – West Side Farmers Market*

Ms. Crampsie Smith and Mr. Waldron sponsored Resolution No. 2020-153 that authorized to execute a Use Permit Agreement with Mountain Airy Neighborhood Association and subpermittee Fegley Enterprises, Inc. for an amendment to the West Side Farmers Market Use Permit Agreement.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. The Resolution passed.

F. *Approve Use Permit Agreement – ArtsQuest – Christkindlmarkt including other holiday activities*

Ms. Crampsie Smith and Mr. Waldron sponsored Resolution No. 2020-154 that authorized to execute a Use Permit Agreement with ArtsQuest for the 2020 Christkindlmarkt including other holiday activities.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. The Resolution passed.

Motion – Considering Resolutions 10 G through 10 J as a group – Certificates of Appropriateness

Dr. Van Wirt and Ms. Crampsie Smith moved to consider Resolutions 10 G through 10 J as a group.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. The Motion passed.

G. Certificate of Appropriateness – 217 East Church Street

Ms. Crampsie Smith and Mr. Waldron sponsored Resolution No. 2020-155 that granted a Certificate of Appropriateness to install a free standing, ground level patio/deck at 217 East Church Street.

H. Certificate of Appropriateness – 23 East Market Street

Ms. Crampsie Smith and Mr. Waldron sponsored Resolution No. 2020-156 that granted a Certificate of Appropriateness to paint their home at 23 East Market Street.

I. Certificate of Appropriateness – 405 Center Street - Deck

Ms. Crampsie Smith and Mr. Waldron sponsored Resolution No. 2020-157 that granted a Certificate of Appropriateness to remove a deck and on-deck arbor and install a new pergola at 405 Center Street.

J. Certificate of Appropriateness – 405 Center Street – Brick Walkway

Ms. Crampsie Smith and Mr. Waldron sponsored Resolution No. 2020-158 that granted a Certificate of Appropriateness to remove brick walkway, install new one, patio w/lights and stain the existing fence at 405 Center Street.

Voting AYE on Resolutions 10 G through 10 J: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Ms. Crampsie Smith, Ms. Negrón, and Mr. Waldron, 6. The Resolutions passed.

11. NEW BUSINESS

Committee of the Whole Meetings

President Waldron announced a Committee of the Whole meeting will be held on Tuesday, October 6, 2020 at 6:00 PM in Town Hall. The subject will be discussion of the Administration's Non-Utility Capital Improvement Plan.

President Waldron announced a Committee of the Whole Meeting will be held on Thursday, October 29, 2020 at 6:00 PM in Town Hall. The subject will be discussion of the interaction between the Police Department, Health Bureau, Recreation, and Department of Community and Economic Development.

Community Development Committee Meeting

Chairwoman Van Wirt announced a Community Development Committee Meeting will be held on Thursday, October 22, 2020 at 6:00 PM in Town Hall. The subjects will be (1) Financial Accountability Incentive Reporting Hearing (2020) in connection with the Article 349 Economic Development Incentive Reporting and Evaluation Program; and (2) Zoning Ordinance text and map amendments related to the proposed creation of a Student Overlay District and including other provisions to address student housing and revising certain dimensional requirements and accessory structure regulations.

Human Relations Commission Meeting

Mr. Callahan asked Mr. Colón if the Human Relations Commission has had a chance to meet or is that later on this month.

Mr. Colón informed the Human Relations Commission meets on the fourth Wednesday of every month at 6:30 pm. So that would be a week from tomorrow at 6:30 pm. Mr. Colón will make sure in advance of the meeting that all Members of Council are forwarded the agenda and the link for the GoToMeeting instructions or for anyone who wishes to participate.

Mr. Callahan then asked if Mr. Vidoni could send out a list of potential dates for the Human Resources Committee, he would appreciate it. Obviously the dates will be listed after the Human Relations Committee meets.

Chief of Police Appointment

Mr. Colón reported he wanted to wish the Administration luck in filling the now vacant Chief of Police position. We were having a lot of meetings with community groups getting together in different capacities to talk about policing. This was unexpected but as we move forward it is encouraging to know that we have a number of qualified candidates within the department. That is important for the continuity of the department for everyone to be familiar with their new Chief, in his personal opinion. He is sure there will be a number of well qualified within the command staff in the department and he wishes the committee the best. If the last name sounded familiar at all, the officer Mr. Evans eluded to that is his uncle Ed Colón. He is retired and enjoying retired life in the private sector but volunteered to be part of the committee so there is someone with actual police experience and experience as Chief of Police to objectively review some of the candidates.

Mr. Callahan mentioned in all of the future appointments of the Police Chief it did come before Council to vote on, he asked if this will come before Council.

Mr. Evans stated yes, it is an appointed position so the Mayor's goal is to make the decision over the weekend so the announcement will be Monday for the nomination that will then need to come to Council for a vote which will be at the next Council Meeting on October 6, 2020.

Mr. Callahan wishes all the applicants luck and he is sure the committee will come up with an outstanding candidate.

Ms. Crampsie Smith thanked the Administration for handling a very delicate situation very well and she wishes all the best to everyone involved in the process of hiring a new Police Chief.

12. ADJOURNMENT

The meeting was adjourned at 9:07 pm.

ATTEST:

Robert G. Vidoni, Esq.
City Clerk