

BETHLEHEM CITY COUNCIL MEETING
10 East Church Street - Town Hall
Bethlehem, Pennsylvania
Tuesday, October 4, 2022 – 7:00 PM

PLEDGE TO THE FLAG

1. ROLL CALL

Vice President Crampsie Smith called the meeting to order in the absence of President Michael Colón, who joined the meeting later via GoToMeeting. Present were Grace Crampsie Smith, Wandalyn J. Enix, Hillary G. Kwiatek, Rachel Leon, Paige Van Wirt, Kiera L. Wilhelm, and Michael G. Colón, 7.

Vice President Crampsie Smith announced that City Council held an Executive Session on September 27, 2022 for an update on personnel matters.

2. APPROVAL OF MINUTES

September 20, 2022

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

Renewed Parking Program Complaint

Alex Hirsch said it has now been 81 days and he is still unable to participate in the City's Residential Parking Program. He said he has heard nothing from the BPA since the last Council meeting. Mr. Hirsch has attended four consecutive Council meetings and made several telephone calls to plead his case. Mr. Hirsch has lived in the City for 25 years and, of late, is a part-time resident. But, he no longer qualifies for the RPP because his license and vehicle registration are through Rhode Island. He also does not qualify because he does not work in the City. At the last meeting, Mr. Hirsch proposed that City Council amend ordinance subsection 434.06 (f) that permits participation by those who work full-time in the City to allow those who work full-time in Lehigh or Northampton counties. He works in Wilson and would qualify. No action has been taken on his suggested amendment.

Help the Homeless

Resident Arthur Curatola said he has been trying to get a meeting with Mayor Reynolds for the past several weeks but to no avail. He wants to suggest remedies to help the homeless. He said the homeless cannot help themselves and need our assistance.

Advocates for Recusal

Resident William Scheirer referred to Council's Committee of the Whole meeting held earlier today to discuss a proposed Conflict of Interest Ordinance. He quoted former President

Ronald Reagan in the 1980s when he said “trust but verify” in regard to nuclear agreements with Russia. Mr. Scheirer said, as it relates to the Conflict-of-Interest Ordinance, “Disclosure is nice, but recusal is better.”

Reprimand Sought

Resident Stephen Antalics has noticed several frustrated residents over the past few Council meetings. They have sought relief from Council because they have not received relief after contacting the Mayor’s Office about various matters. Several have been uneasy about bringing complaints to public meetings. He wondered how many more residents are similarly frustrated but have been unwilling to come forward. He said there is a problem with communication with City officials. He said he has sent emails that go unanswered. Mr. Antalics next read from the Mayor’s Vision for Bethlehem when he was seeking election to the position. Mr. Reynolds said he “was proud to have proposed open and responsive City government.” Mr. Antalics said a contradiction exists. He appealed to City Council to be responsive to residents and consider making a formal reprimand of Mayor Reynolds and asking him to be more responsive to residents. He recalled the days when he could walk into a former mayor’s office, but today there is “an imaginary moat with crocodiles.” He appealed to Council to “remind the Mayor of his responsibilities.”

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

Skyline West

Resident Jeffrey Parks said he is present to answer any questions about the Certificate of Appropriateness that will be considered later in the meeting regarding his Skyline West proposed development. He added that a construction consultant is with him to address concerns that Council might have.

Do Not Jeopardize World Heritage Application

Resident William Scheirer urged Council not to jeopardize the application for Bethlehem to become a World Heritage site. He said that postponing the Skyline West project for “a considerable period of time” is less of a problem than losing World Heritage site approval because of the existence of a development that would cause rejection. He said if the City were to lose the 50 apartments planned for Skyline West, it is not very significant compared to the 1,750 apartments already planned for the former Martin Tower site.

More Support to Delay Development Consideration

Resident Stephen Antalics referred to letters that Council received from two informed residents about the World Heritage application as it relates to the Skyline West proposal. He said to achieve World Heritage status would be “a major pearl.” He asked what is of greater importance at the moment to residents: apartments on West Broad Street or being recognized for World Heritage internationally? If achieved, he predicted that tourism would flourish. All would reap a reward because it could reduce taxes. He said he is not against development, but he is for what he believes is best for Bethlehem. He does not believe that Skyline West development plans

would be cancelled if the project were delayed. This project already has been delayed by several years. But time is an issue for World Heritage because it is unknown whether this development – if approved – could cause rejection of the World Heritage application. He cautioned to be very careful not to lose this opportunity for the City to receive world-renowned recognition.

Assessment Urged

Resident Albert Wurth called the World Heritage application a “wonderful opportunity for the City.” He said that many mistakes have been made over the years in losing the City’s history and he urged Council not to make another. He encouraged Council to delay a decision on Skyline West until at least after an assessment could be made to determine whether the development could jeopardize the City’s World Heritage designation.

Err on the Side of Caution

Resident Bruce Haines said that if the City is going to err, it should do so on the side of an abundance of caution rather than to proceed and just endorse a HARB recommendation. He said a HARB recommendation is rather subjective if you look at the qualifications as to whether the requirements are met. It is a judgement call. As an example, the prior HARB board in 2018 recommended that the home not be torn down for the purpose of building an apartment complex. The City Council at that time overrode that recommendation. A delay of this project at least until a World Heritage assessment could take place would send a message that City Council cares about receiving this World Heritage designation. Mr. Haines added that another reason for rejection or delay is that HARB made its recommendation without the knowledge that the inspection body for the World Heritage Commission recommends a heritage impact assessment for any property that is in the proposed district and in the buffer zone. It is not a mandate. But the same body that would do the inspection to determine World Heritage status is recommending that this inspection be done of potential impacting development. He said he is not against the project, but wants to be sure that no project would disqualify the application.

5. OLD BUSINESS

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

6. COMMUNICATIONS

- A. *Police Chief – Firearm Purchase – Marks*

The Clerk read a memorandum dated September 16, 2022 from Michelle Kott, Chief of Police, with an attached resolution and agreement for the purchase of a duty weapon by a retired Officer of the Bethlehem Police Department. Pursuant to the Third-Class City Code, Retired Officers may purchase their duty firearms at fair market value.

Vice President Crampsie Smith stated that Resolution 10 A is on the agenda.

- B. *City Solicitor – Use Permit Agreement – ArtsQuest – Oktoberfest 2022*

The Clerk read a memorandum dated September 28, 2022 from City Solicitor John J. Spirk, Jr., Esquire, with an attached Resolution and Associated Use Permit Agreement. The Permittee is ArtsQuest and the event is Oktoberfest 2022. The agreement is for September 30, 2022 from 11:00 AM until 11:00 PM, as well as October 1 from 11:00 AM until 11:00 PM, October 2 from 11:00 AM until 7:00 PM, October 7 from 4:00 PM until 11:00 PM, October 8 from 11:00 AM until 11:00 PM, and October 9 from 11:00 AM until 7:00 PM. The area covered is 1st Street from Founder's Way to the eastern terminus and Founder's Way between 1st Street and 2nd Street.

Vice President Crampsie Smith stated that Resolution 10 B is on the agenda.

C. *City Solicitor – Use Permit Agreement – ArtsQuest – Mercy Vegan Pop-Up Event*

The Clerk read a memorandum dated September 28, 2022 from City Solicitor John J. Spirk, Jr., Esquire, with an attached Resolution and Associated Use Permit Agreement. The Permittee is ArtsQuest and the event is the Mercy Vegan Pop-up Event. The agreement is for October 23, 2022 from 9:00 AM until 7:00 PM and covers 1st Street from Founder's Way to the eastern terminus.

Vice President Crampsie Smith stated that Resolution 10 C is on the agenda.

D. *Business Administrator – 2023 Budget – Pension Minimum Municipal Obligations*

The Clerk read a memorandum dated September 29, 2022 from Business Administrator Eric Evans regarding the 2023 Budget for the Pension Minimum Municipal Obligations. Act 205, the pension reform law, requires the Chief Administrative Officer to submit for 2023 purposes, the financial requirements of the Plans and the minimum municipal contribution to the Plans of the governing body of the City by September 30, 2022. Based on the most recent actuarial valuations and payroll data, the minimum municipal contributions that will need to be budgeted for 2023 are as follows: Police - \$6,058,001, Fire - \$2,784,686, and PMRS - \$2,006,405.

Vice President Crampsie Smith stated that this communication is for informational purposes only.

E. *Business Administrator – 2022 Pension State Aid*

The Clerk read a memorandum dated September 29, 2022 from Business Administrator Eric Evans with an attached resolution advising that a direct deposit for Pension State Aid in the amount of \$4,211,707.36 was received on September 28, 2022 and has been allocated to Pension Bond payments and Police, Fire, and PMRS Minimum Municipal Obligations.

Vice President Crampsie stated that Resolution 10 D is on the agenda.

7. REPORTS

Vice President Crampsie Smith announced that Council held a Committee of the Whole meeting at 5:00 PM to discuss the proposed Conflict of Interest Ordinance. Council voted to send the ordinance to full Council for consideration at a future Council meeting.

A. *President of Council*

1. *Councilmanic Appointment – Rachel Leon – Bethlehem Area Public Library Board*

Vice President Crampsie Smith read President Colón's reappointment of Rachel Leon to membership on the Bethlehem Area Public Library Board effective until January, 2025. Ms. Leon and Dr. Enix sponsored Resolution No. 2022-201 to confirm the reappointment. Ms. Leon said that she would abstain from voting because this appointment involves herself.

Voting AYE: Dr. Enix, Ms. Kwiatek, Dr. Van Wirt, Ms. Wilhelm, and Ms. Crampsie Smith,
5. ABSTAIN: Ms. Leon, 1. The Resolution passed.

B. *Mayor*

1. *Administrative Order – J. Marc Rittle, Bethlehem Housing Authority*

Mayor Reynolds appointed J. Marc Rittle to the Bethlehem Housing Authority, effective until January, 2027. Ms. Leon and Dr. Enix sponsored Resolution No. 2022-202 to confirm the appointment.

Voting AYE: Dr. Enix, Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Ms. Crampsie Smith, 6. The Resolution passed.

8. ORDINANCES FOR FINAL PASSAGE

A. *Bill No. 22-2022 – Amend 2022 General Fund – Adjustments – Police Equipment*

The Clerk read Bill No. 22-2022 – Amend 2022 General Fund – Adjustments – Police Equipment, sponsored by Dr. Enix and Ms. Leon and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, AMENDING
THE 2022 GENERAL FUND BUDGET

Voting AYE: Dr. Enix, Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Crampsie Smith, 6. Bill No. 22-2022 now known as Ordinance No. 2022-21 was passed on Final Reading.

B. *Bill No. 23-2022 – Amend 2022 General Fund – Adjustments – Police Overtime – Musikfest*

The Clerk read Bill No. 23-2022 – Amend 2022 General Fund – Adjustments – Police Overtime – Musikfest sponsored by Dr. Enix and Ms. Leon and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, AMENDING
THE 2022 GENERAL FUND BUDGET

Voting AYE: Dr. Enix, Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Ms. Crampsie Smith, 6. Bill No. 23-2022 now known as Ordinance No. 2022-22 passed on Final Reading.

C. *Bill No. 24-2022 – Amend 2022 General Fund – Adjustments – Distressed Homes*

The Clerk read Bill No. 24-2022 – Amend 2022 General Fund – Adjustments – Distressed Homes sponsored by Dr. Enix and Ms. Leon and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, AMENDING
THE 2022 GENERAL FUND BUDGET

Voting AYE: Dr. Enix, Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Ms. Crampsie Smith, 6. Bill No. 24-2022 now known as Ordinance No. 2022-23 passed on Final Reading.

9. NEW ORDINANCES

None.

10. RESOLUTIONS

A. *Approve Police Firearm Purchase – Marks*

Ms. Leon and Dr. Enix sponsored Resolution No. 2022-203 that authorized to execute an agreement to effectuate the transfer of the city-issued handgun assigned to Sergeant Stephen Marks, a retired City Police Officer.

Voting AYE: Dr. Enix, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Ms. Crampsie Smith, 5. NAY: Ms. Kwiatek, 1. The Resolution passed.

B. *Approve Use Permit Agreement – ArtsQuest – Oktoberfest 2022*

Ms. Leon and Dr. Enix sponsored Resolution No. 2022-204 that authorized to execute a Use Permit Agreement with ArtsQuest for Oktoberfest 2022.

Voting AYE: Dr. Enix, Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Ms. Crampsie Smith, 6. The Resolution passed.

C. *Approve Use Permit Agreement – ArtsQuest – Mercy Vegan Pop-Up Event*

Ms. Leon and Dr. Enix sponsored Resolution No. 2022-205 that authorized to execute a Use Permit Agreement with ArtsQuest for the Mercy Vegan Pop-Up Event

Voting AYE: Dr. Enix, Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Ms. Crampsie Smith, 6. The Resolution passed.

D. *Approve 2022 Pension State Aid*

Ms. Leon and Dr. Enix sponsored Resolution No. 2022-206 that authorized to allocate \$4,211,707.36 in 2022 General Municipal Pension System State Aid to the line items specified in the Resolution.

Voting AYE: Dr. Enix, Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Ms. Crampsie Smith, 6. The Resolution passed.

E. Certificate of Appropriateness – 328-330 West Fourth Street

Ms. Leon and Dr. Enix sponsored Resolution No. 2022-207 that granted a Certificate of Appropriateness to replace roofing, any damaged soffit, fascia or trim and also paint the building at 328-330 West Fourth Street.

Voting AYE: Dr. Enix, Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Ms. Crampsie Smith, 6. The Resolution passed.

F. Certificate of Appropriateness – 25 West Third Street

Ms. Leon and Dr. Enix sponsored Resolution No. 2022-208 that granted a Certificate of Appropriateness to construct a new, 5-story cultural center at the site of the current Banana Factory Arts Center at 25 West Third Street.

Ms. Leon voiced her support for the HCC's recommendation regarding first-floor awnings.

Voting AYE: Dr. Enix, Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Ms. Crampsie Smith, 6. The Resolution passed.

Vice President Crampsie Smith noted that Mr. Colón has joined the meeting via the GoToMeeting option.

G. Certificate of Appropriateness – 128 East Third Street

Ms. Leon and Dr. Enix sponsored Resolution No. 2022-209 that granted a Certificate of Appropriateness to construct a new, six-story, mixed-use building with commercial space on the first floor and residential tenant space above at 128 East Third Street.

Ms. Leon said she wanted to commend the required setback on this project. She said that height and density were a concern in this area, so the setback makes a positive statement.

Voting AYE: Dr. Enix, Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Mr. Colón, and Ms. Crampsie Smith, 7. The Resolution passed.

H. Certificate of Appropriateness – 143 West Broad Street – postponed from 9/20 Council Meeting

Dr. Enix and Ms. Leon sponsored Resolution No. 2022-210 that granted a Certificate of Appropriateness to construct a new multi-family residential building with a parking deck and amenities. The project previously received approval for the demolition of the existing structure at the June 29, 2018 City Council Meeting.

Ms. Leon asked what rights the City has to act against a developer if a structure is not built as promised.

City Solicitor Spirk said a development works its way through the Planning Commission stage and then to the City Planning Department where a Developer's Agreement is generated. This is a 15-page document or so and captures terms and conditions of the development. Financial security in the form of a Letter of Credit must be submitted to guarantee what is agreed to. This would be drawn against if it is found that elements are not completed as agreed. Inspections take place and department heads sign off if the work is done properly. Solicitor Spirk said the financial security is the City's guarantee that the work will be properly completed. If necessary, the City could draw against that money to pay to have the work done properly.

Dr. Van Wirt said there are two discreet pieces to this project: the building itself and then the impact that it may have on the World Heritage site. Council has received a lot of letters from people who feel strongly about the building and people who feel strongly about the impact it may have on the World Heritage site consideration. She said these issues can get confused, so she wanted to be clear about how she feels about both. Dr. Van Wirt said she voted in 2018 against the HARB recommendation to approve the demolition of the building that was on the site. She said she did this with a clear conscience because she knew that HARB did its job. HARB's job was to look at that building and say whether the building should be demolished. HARB said no, it should not be demolished because it was an historic building. But when it came to City Council, she believed her role was to look at the greater aspect of the building. She believed that it was an ambitious project and a good use of land that was unlikely to be used under normal circumstances, so she did not take HARB's recommendation.

Dr. Van Wirt said she met with the people who have been spearheading the process for the UNESCO/World Heritage designation, as have many members of Council. She became convinced by these people of their expertise and their comfort with the HARB process that the impact of the proposed building would not harm the World Heritage application. She added that some of what is left to do falls outside of what Council can do and where the Administration plays a role. One is to ensure that the building is built as presented. She complimented that the project is designed so that the HVAC and other utilities will be built out of sight under the parking garage and not on top of the building. She also would encourage making certain that a tree inventory exists. She said it will be important to maintain a tree screen.

Laura Collins, Department of Community and Economic Development Director, said the City Forester looks at elements like this. She said a new feature to the City's development approval process is that properties that are within the HCC or HARB districts will be flagged and receive the additional scrutiny to ensure that these additional historical district requirements are being met. She added that this project would now go on for site review.

Because the City Forester works under the Public Works Director, Michael Alkhal next addressed the question. He said that a landscaping plan is required.

Dr. Van Wirt asked that if some of the larger screening trees are "lost" in the process, is the developer required to replace them.

Mr. Alkhal said that efforts will be made. If it is feasible, then they will be required to provide replacements.

Dr. Van Wirt noted that a number of large trees have been lost along the Monocacy River. These have provided screening in this area in the past. She asked if there could be discussions with the developer to plant large trees by the river to lessen the impact on the building to the person who is in the Industrial Quarter.

Mr. Alkhal said those concerns could be made known to the developers.

Dr. Van Wirt looked to Mr. Parks, one of the developers of the property, and said she was glad that he was in the audience tonight to hear these concerns.

Dr. Van Wirt also stated that the integrity of this process is relying on HARB and the professionalism and expertise of the people appointed to that board. "This Council is given the job of looking out for what is best for the City, but HARB is given the job of looking at what is best for the historic district, and it is imperative that we continue to appoint the best, brightest people that we have who can give us the expert opinions about the real impact of these buildings and then allow us as Council to make greater decisions based on their expertise," she said. "And so, I think this is a really good focal point for that process because this is such a tender area. It is clearly a source of passion for so many people. So, I hope we can continue to really appoint the best and brightest to our authorities, boards, and commissions no matter what their viewpoints are."

Ms. Kwiatek echoed the emphasis on the need for tree screening. She asked if the tree ordinance has a minimum circumference for replacement trees.

Mr. Alkhal said that trees removed with a circumference larger than 8 inches must be replaced. This would be trees that eventually mature to this size, and requirements vary as to whether tree replacement is one for one or perhaps two replacements per tree removed.

Ms. Kwiatek said her opinion has been shaped by the people leading the World Heritage Commission effort in Bethlehem. They have engaged a consultant who has been through the process before. This expert's advice was that the Skyline West proposal would not require a World Heritage assessment, but Council should trust the recommendation of HARB. Ms. Kwiatek commended HARB's reputation. HARB received input from the Bethlehem World Heritage Commission members at its review meeting of this project. Ms. Kwiatek added that the architect for Skyline West has sat on the Philadelphia Heritage Commission, so he knows what is required.

Council Solicitor Panella offered some answers to previous questions about trees. He said that Article 910.04 of the City Ordinances subsection (e) requires replacement trees to be planted within six months of the notice issue date with additional tree and spacing specifications. Subsection (f) also provides for an administrative fee of \$300 if the replacement tree has not been planted within a time or specifications as required.

Dr. Enix said she believes what is being said and respects those saying it, but she cannot be a part of what she believes is "an enormous gamble" over such an important issue. She believes it would be prudent to wait for the proposed inspection.

Ms. Wilhelm said that no one wants to jeopardize the UNESCO Heritage Status. She said the people consulted have been people working in this area for a long time who do not want to jeopardize this status either. She wanted to make it clear that this is not just a blind trust of HARB. HARB has been established as a protective mechanism. The due diligence has been done, and that is clear to UNESCO as well. Furthermore, the UNESCO process is a timeline. She said

that to “push the pause button” may send an unwanted signal to UNESCO of uncertainty by the City.

President Colón said that, as it relates to the UNESCO designation and this Certificate of Appropriateness in particular, there should be certain points in this process where checks are made as to how things are going. It is important that there are general updates to be sure that this project remains on track.

Vice President Crampsie Smith thanked HARB members for their time and talents. She respects them, but at times disagrees with their recommendations. Her main concern is that progress in today’s world needs to be balanced with preserving our heritage. She believes this is what makes Bethlehem unique. She believes that leaders have not been as serious about preserving this heritage in the past as it should have been. She spoke of people who have moved away, have returned for visits, and have commented that Bethlehem has been losing its “sense of character.” As far as the heritage assessment on this project, while it might not be necessary or mandatory, being designated as a World Heritage site would be huge. It is extremely significant. She has been told the assessment could take two or three months. This is not that long and would be worth a modest delay compared to jeopardizing this designation. She added the belief that heritage assessments should be done for all proposed development in the historic districts. Vice President Crampsie Smith said she wished the developer would voluntarily initiate this assessment to do everything that could be done to enhance our heritage and not do anything to adversely affect our historical preservation.

Voting AYE: Ms. Kwiatek, Dr. Van Wirt, Ms. Wilhelm, and Mr. Colón, 4. NAYS: Dr. Enix, Ms. Leon, and Ms. Crampsie Smith, 3. The Resolution passed.

11. NEW BUSINESS

None.

12. ADJOURNMENT

The meeting was adjourned at 8:25 PM.

ATTEST:

Tad J. Miller
City Clerk