

BETHLEHEM CITY COUNCIL MEETING  
10 East Church Street - Town Hall  
Bethlehem, Pennsylvania  
Tuesday, August 2, 2022 - 7:00 PM

PLEDGE TO THE FLAG

1. ROLL CALL

President Colón called the meeting to order. Present were Grace Crampsie Smith, Wandalyn J. Enix, Hillary G. Kwiatek, Rachel Leon, Paige Van Wirt, Kiera L. Wilhelm, and Michael G. Colón, 7.

PUBLIC HEARINGS

President Colón stated prior to the consideration of the regular Agenda items, City Council will conduct two Public Hearings, as follows:

Public Hearing No. 1

The First Public Hearing is to accept public comment on the request from Kolb, Vasiliadis, Florenz & Recchiuti, LLC, on behalf of petitioners George Mowers and Charlene Donchez Mowers, requesting vacation of a portion of Second Avenue. As part of the Armory redevelopment plan, a portion of Second Avenue was vacated in favor of the developer of the Armory Apartments. However, an approximate area of 15 feet by 107 feet was not vacated and remains a grassy-area between the Mowers' property and the sidewalk on Second Avenue. The Mowers are seeking to have this area vacated in their favor and will be responsible for care and maintenance.

Public Hearing No. 2

The Second Public Hearing is to receive public comment on the request for the Inter-municipal Transfer of Restaurant Liquor License No. R-13209 from Green Pond Golf Course, Inc., 3604 Farmersville Road, Bethlehem, Northampton County to Moyer Entertainment & Hospitality Company, 24 West Broad Street, Bethlehem, Northampton County, PA.

*Communication 6 A – City Planning Commission*

The Clerk read a memorandum dated July 15, 2022 from Darlene Heller, Director of Planning and Zoning, recommending approval of the petition to vacate a portion of 2<sup>nd</sup> Avenue. The Planning Commission recommends that the vacation include the entirety of the area proposed for vacation with the appropriate conditions required by the Department of Public Works.

*Communication 6 B – Lehigh Valley Planning Commission*

The Clerk read a memorandum dated June 28, 2022 from Brian Hite, Transportation Planner of the Lehigh Valley Planning Commission. The Transportation Planning Committee determined that the proposed vacated portion of 2<sup>nd</sup> Avenue does not affect the transportation network or any proposed transportation improvement plans or programs.

*Public Hearing No. 1*

President Colón called the First Public Hearing to order concerning the request for a vacation of a portion of Second Avenue. Attorney Michael Recchiuti spoke on behalf of the Petitioners. He noted that this request was reviewed by the City Planning Commission a few weeks ago and that he is working with Director of Public Works Michael Alkhal to meet some recommendations that were made including providing a utility maintenance easement for two lights that are located at the edge of the property.

Attorney Recchiuti referred to this parcel as “remnant land” resulting from the realignment of 2nd Avenue when the Armory apartments plan was approved several years ago by City Council. This left a parcel 107 feet long and 15 feet wide. Under the 3rd Class City Code, a majority of the property owners that touch the unused portion may petition to have the street vacated by City Council. That is what this proceeding is tonight.

Attorney Recchiuti said the property does not have real value to the City. It is not buildable under the codes. There are no utilities that run through the property. Meanwhile, the grass still needs to be cut and snow shoveled from a nearby sidewalk. He added that this maintenance is shared by both the Mowers and Peron Development, the developers of the Armory apartments. Attorney Recchiuti also said that the parcel, if vacated, would be split between the Mowers and Peron Development. The top 8 feet would go to Peron Development and the rest to the Mowers. He said this is really only land that was once taken for a public street being returned to the property owners now that it is no longer useful as such.

President Colón confirmed that both the Mowers and Peron Development have been sharing maintenance of the property. Attorney Recchiuti said that was correct. He added that vacating this property would relieve the City of any future maintenance obligation.

*Neighbor Says Property Has Value to City*

Neighbor Anna Zawierucha said she has discussed the vacation process with the Mowers. She said they seem like nice people, but she believed that this action would give the Mowers about 1,500 additional square feet of property. She believes some amount should be paid by the Mowers for this land. She also opposed the vacation because she was concerned about what future owners might do with the property. She said it now has three nice trees. She was concerned that future owners could cut down these trees. However, if these remained property belonging to the City, ordinances would prohibit this without cause. She added the belief that the maintenance is not much for the City and encouraged Council to keep the property and not vacate it.

President Colón said the street vacation ordinance will be placed on a future City Council agenda for First Reading. He adjourned the First Public Hearing at 7:13 PM.

*Public Hearing No. 2*

President Colón called the Second Public Hearing to order concerning request for the Inter-municipal Transfer of Restaurant Liquor License No. R-13209 from Green Pond Golf Course, Inc.,

3604 Farmersville Road, Bethlehem, Northampton County to Moyer Entertainment & Hospitality Company, 24 West Broad Street, Bethlehem, Northampton County, PA.

Attorney Anthony Brichta represented the applicant. Two first-floor units will be leased to unspecified tenants. The applicant will use the rooftop and basement for the purposes of a restaurant and bar under the liquor license. He said this bar and restaurant will be similar to an existing establishment on the north side of the street. He said there are similar uses in the area.

The rooftop will hold about 60 people, and the basement will serve about 100. It will have a full kitchen and offer an area for small bands. (A schematic marked "A-1" was provided.) A transfer of the liquor license is being requested because Bethlehem has reached its quota for liquor licenses, so this process is necessary. One could not be located for sale within the City limits.

Hours will be standard to a normal bar and restaurant. All servers and bartenders will be RAMP (Responsible Alcohol Management Program) certified in patron identification and other PLCB safety protocols. Ample security cameras will be provided. Renovations are underway. Opening is not anticipated for several months to perhaps one year.

President Colón confirmed with Attorney Brichta that the bar will follow RAMP training and protocols and that onsite cameras will be used. He asked about take-out alcohol, but Attorney Brichta said that has not yet been determined. He added, however, that alcohol take-out is not central to the business plan.

Ms. Kwiatek noted that the application indicates that one of the partners, members, managers, or corporate officers has a misdemeanor or felony conviction. She asked whether this is related to alcohol. Attorney Brichta said he did not have specifics on that. He added that this is a two-step process. The next level is before the LCB, so the application would be stopped at that level if someone involved in this venture is prohibited from participating. However, Attorney Brichta said he is confident that those involved will pass the clearances process.

Ms. Kwiatek asked about entry to both the basement and rooftop. Drew Moyer, representing the applicant, said there will be stairs and an elevator to both the basement and the rooftop. The basement will be about 4,000 square feet for both the dining area and kitchen, and the rooftop will be about 1,600 square feet.

#### *Rooftop Bar Concern*

Resident Bill Scheirer observed that there is an apartment building under construction next to the proposed establishment. He said that rooftop bars can be problematic with the hours of operation when located near residential housing.

President Colón adjourned the Second Public Hearing at 7:25 PM.

## 2. APPROVAL OF MINUTES

July 19, 2022

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

*Non-reappointment Questioned*

Resident Stephen Antalics observed that Gary Lader was listed on the July 19 agenda for reappointment to the HCC yet this matter was not addressed during that Council Meeting. He wondered why and said it concerned him. He noted that Mr. Lader's name also did not appear on today's agenda. He believed that he could safely assume that his reappointment will not occur. He asked what Mr. Lader, a professional architect, did to warrant the loss of his reappointment. Mr. Antalics added that the agenda was released by the City on July 15. On July 18, Mr. Lader – as a member of the HCC – voted against the Certificate of Appropriateness for ArtsQuest's new construction. At the July 19 Council Meeting his reappointment candidacy was not discussed. He asked if events were related. Mr. Antalics said that Mr. Lader was not aware that he was not re-appointed and only learned of this apparent fact through Mr. Antalics' telephone call. Mr. Antalics believed that it was unprofessional that someone from the City did not relay this news along with an explanation.

*Wake Up, Rise Up Participation Encouraged*

Resident Arthur Curatola again suggested that Bethlehem participate in the September 21, 2022 Wake Up, Wise Up, Live for Peace program. This is an international event to celebrate the International Day of Peace. He said that participation would provide Bethlehem with exposure and perhaps provide advertising revenue.

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

*Supports Chicken Ordinance*

Resident Summer Patricello said she has owned chickens on and off for 10 years, both in a neighboring township and the City. She said those who have chickens know that keeping chickens clean is essential to keeping them alive. She conceded that chickens make noise, but countered that dogs do as well. As for manure, she said that serves as a great fertilizer that decomposes quickly. She also cited the benefits of the yield of fresh eggs and the ability to teach children responsibility such as performing chores such as feeding animals.

*Favors New Building Design*

Resident Lara Bly identified herself as a former resident artist at the Banana Factory. She said that ArtsQuest has a great track record of great taste and giving the City "something brand new." She supports the new cultural center building design.

*Economic Hardship*

Resident Todd Chambers identified himself as an ArtsQuest board member and an architect. He said this project has included three architectural firms and been through six "re-thinks" of the project. He said this has included extensive cost examinations. The current proposal

is to demolish all six of the buildings instead of a prior plan from 2018 that included saving two of the six. However, it is no longer feasible to save the two buildings and would place an economic hardship on ArtsQuest. He added his opinion that the buildings offered little “contributory fabric remaining,” especially considering the more modern structures that have been built up around the site. He added that the cultural benefits that the Banana Factory offers should be compared to the limited value of the two additional buildings proposed for demolition. Mr. Chambers believed that this project meets the standard of suffering undue economic hardship. Additionally, he believes that the proposed five-story building is to scale with recent neighboring construction.

*Asset to Community*

Resident Susan Schupp also is a board member. The new ArtsQuest building would add to the viability of the community.

*Wants Support for HCC*

Louis James is an HCC member. He urged City Council to back the HCC’s recommendation to deny the Certificate of Appropriateness. He said if City Council continues to allow the Historic District to be whittled away, soon there will be no more conservation district. He said the skyline has definitely changed with some key development approvals allowed by past City Councils. “Modernization and acquiescence to developers has overshadowed any idea of preserving and repurposing existing buildings,” he said, adding that “new buildings that dwarf the existing buildings means nothing.” He suggested that ArtsQuest look at other areas on the South Side for its complex, including unpurposed other Steel properties. He said in recent years, City Council has not supported the HCC. Council needs to pay attention to the Historic District. He asked why have a conservation district if they are not going to pay attention to it.

*Boost to Economic Development and Tourism*

Vicki Doule, Chairwoman for the ArtsQuest Trustees, cited the importance of the arts, particularly during the pandemic. She reiterated that the increased costs following the pandemic make the original building plan infeasible. The cost impact is important to ArtsQuest to be able to maintain programming, which includes not turning away those who cannot afford to pay. She added that the current Banana Factory is not sustainable. It has outgrown what is needed for the students and local school districts. Ms. Doule said a new facility would allow continued growth with economic development and tourism while increasing access to the arts.

*Fire Code Challenge*

Douglas Meshaw is a building codes consultant representing the Pennsylvania Builders Association. He opposes amending Article 1501 which would update the 2018 International Fire Code. Mr. Meshaw asked Council to table consideration on the Ordinance and provide contact information so that he could meet with a City representative. He said that he would challenge the validity of the ordinance with the Department of Labor & Industry because he said it does not meet the intent and purpose of the Uniform Construction Code. He said this improperly exceeds the fire code. Mr. Meshaw said that it would be necessary to meet the heavy burden of proof that Bethlehem is the only city in the state that needs this ordinance. What special condition exists in Bethlehem that required them to enact this ordinance? Mr. Meshaw again asked to receive

contact information to continue discussion. He added that he would take any questions of Council. President Colón said this was not the time for Council to ask questions, but Mr. Meshaw could stay until later in the meeting if he wanted. Mr. Meshaw said he had to travel back to Harrisburg, but would follow up if need be.

*Building Anew Essential*

Bob Begliomini, an ArtsQuest trustee, said that building a new facility, rather than preserving two of the existing buildings, would lower the cost of the project significantly, shorten the construction period, reflect elements of the history of the South Side, and serve as a visible western gateway to the City. The cost savings is particularly important since ArtsQuest is a nonprofit organization. This is the preferred location for the facility. It is close to the Bethlehem Area School District where ArtsQuest serves at-risk students and is serviced by public transportation. He added that ArtsQuest owns this land. Having to purchase another site would be cost-prohibitive. He termed the buildings that are proposed to be razed as old with no historic value. He called the proposed arts center “history in the making.”

*New Business Announced*

Ekaterina Riefkohl of Nazareth said she opened a new business known as MGF Discounted Goods at 626 Linden Street.

*Sustainability and Food Security*

Resident Meg Mickovitz said her family is excited about the proposed chicken ordinance. She has had chickens in the past. She noted that chickens were allowed with little or no restriction in the City in the past, but were banned in the 2000s. She was appreciative of the open-mindedness that might allow the return of chickens with some limitations. She said that keeping chickens has big implications for sustainability and food security. She believes this would fit in well with Bethlehem’s Climate Action Plan. She said her only negative comment on the plan is that it would be limited to just 40 permits, but she is hoping that this will be expanded after a successful first-year pilot plan.

*More Dialog Urged*

Maureen Dressen, President of the South Bethlehem Historical Society, said the Society supports the HCC recommendation to deny a Certificate of Appropriateness to the ArtsQuest request. She said that prior City Council’s have overridden several recommendations of the HCC in favor of developers. She recognized that ArtsQuest is not a developer and has done great things for the City. She urged City Council to encourage more dialog between ArtsQuest and the HCC and to see if there is a solution that can be found to integrate the needs and economic requirements for ArtsQuest and the concerns of the HCC.

*Need for New Space*

Resident Justin Passino has been involved with ArtsQuest for six years as a student, performer and instructor. He said the arts cannot survive for long without space to grow, which a new arts center would provide.

*Space Need Echoed*

Resident Tami Cantalina also has been a student and performer at ArtsQuest. She said they need a consistent home rather than events being scheduled only as they can be fit in. This includes inconvenient and inconsistent show times that negatively impact gaining a following because of a lack of adequate space. She said a new, larger building would give them the needed space.

*Special Relationship*

Lou Fromm of Ambler has been involved in many ArtsQuest committees and said there are not many organizations like it in the region or in the country. He encouraged not passing up the opportunity of what ArtsQuest offers and to continue that direction with what it is planning. He said that ArtsQuest is lucky to have Bethlehem and Bethlehem is lucky to have ArtsQuest.

*Modern Space Needed*

Resident Martin Gilchrist supported the plan to replace what he views as an obsolete building “that has been forced to become an arts quality center with difficulty.” He is a believer of history, but also it must be recognized that societal needs create a need for different types of needs as society moves forward. He likes the design of the proposed building and said modern space is needed.

*Opportunity to Showcase Work*

Resident Lou Riley said humans have a need to be creative. The Vice President of the Visual Arts Board said that a new building would allow for interaction and for artists to showcase their art. The old building design is incapable of that. The new center will engage the community and will make a significant change in what ArtsQuest is able to accomplish.

Invaluable Learning

Katie Hovencamp works for Northampton Community College and the Banana Factory and is a volunteer at the National Museum of Industrial History. She believes that ArtsQuest has provided invaluable opportunities for herself as well as her students.

*ArtsQuest’s History of History*

ArtsQuest President and CEO Kassie Hilgert noted the economic hardship narrative that ArtsQuest submitted with its application. ArtsQuest also submitted a narrative that it has investigated other project scenarios. She addressed the two additional buildings that ArtsQuest now proposed demolishing. These are contributory, not necessarily historic. She asked whose history are we looking to preserve. One was a car dealership that did not allow women to purchase vehicles. Instead, she turned to what ArtsQuest has done using the arts to honor history for the last 39 years. It started Musikfest to highlight Main Street and the Colonial Industrial Quarter. ArtsQuest cannot take all of the credit, but she looks to the success of Historic Bethlehem Museum and Sites that is trying to get the UNESCO World Heritage site designation. She said Christkindlmarkt was started with a nod toward our German heritage. ArtsQuest bought the

Banana Factory buildings in 1997, not because they were historic but because they were “old and cheap.” But that gave them space. They also tore down the Bethlehem Steel No. 8 Hammer Shop that built a building that pays homage to Bethlehem Steel and what this city has accomplished. She asserted that ArtsQuest has been successful at that as well. They also own a 150-year-old Steel building behind the Visitor Center, which ironically is outside the Historic District, but they intend to preserve and rehab as the building it is and how it stands today. She added that the HCC has a narrow purview, but said City Council can be much broader. Ms. Hilgert said the South Side is an arts district and added that not everything can be saved. Perhaps the Historic District boundaries should change. Life changes and perhaps we should change with it. This project has been worked on since 2018. This is the right project at the right time and the right design for Bethlehem to honor who we were but most important who we are and who we are going to be tomorrow. She strongly urged that Council overturn the denial recommendation from the HCC.

#### *BASD Support for Cultural Center*

Jack Silva, Assistant Superintendent and Chief Academic Officer of BASD, spoke in favor of the cultural center. He noted a partnership with the Banana Factory in terms of afterschool programs and field trips. The opportunities could grow if the cultural center is permitted to grow. He added a community interaction factor, particularly with 1,600 students in the South Side area being exposed to the arts at a young age. Finally, he noted respect for the historic community, but he does not believe that these buildings are historically valuable and that the space can be better used.

#### *Benefits of Chickens*

Resident Joe Savitsky added his support for the chicken ordinance. He cited inflation and that the eggs produced will help family budgets. He also does not believe that permits are necessary and hopes that this requirement will be phased out. He added that it is not necessary to register apple trees, for example.

#### *Value a Gem*

Mario Galante of Coopersburg is an ArtsQuest board member. He has been an educator and been a consultant to school districts in New Jersey and Pennsylvania. In this role, he advised them how to look at the community and build a sustainable educational support for their school system. He sees this support as already existing in Bethlehem in the form of ArtsQuest. He called the Banana Factory a gem and said that this project can make a huge difference for the future.

#### *Concerns for Homeless and Traffic*

Resident Esther Lee expressed concern about fast traffic in South Bethlehem. She also complained of a traffic jam at new apartments along Cherokee Street and wondered whether a traffic study has been conducted. She suggested that this condition be checked. She also encouraged action toward helping the homeless. Ms. Lee said she hears talk month after month about the homeless, but there does not seem to be action about helping “those people with no place to sleep.”



*ArtsQuest Has Made Banana Factory Historical*

Resident Arthur Curatola agreed with those who said the Banana Factory buildings do not have historic value and called them shacks. He said this is valuable space. You have to go with the times. It was actually ArtsQuest that made this property historical.

*Build Elsewhere*

Resident William Scheirer complimented ArtsQuest on generating public support and creative arguments raised about negative associations with some of the affected buildings. He noted the economic hardship that is being claimed to justify the proposed demolition. He said they could save \$1 million by not demolishing the buildings, either by continuing to use them and erecting a smaller building elsewhere, but that may cause problems of coordination an increase the maintenance of the older buildings. He suggests erecting the larger building at Steel Stacks, which would afford room for more parking. He said that he has heard the argument that Bethlehem is always evolving. He said that just because this practice of tearing down and not preserving history has happened in the past does not mean it should continue to happen in the future. He said that these are the only remaining historical buildings between New Street and Brodhead Avenue. Saving historical buildings gives us a sense of place and a respect for the past.

*More Support for Relocating*

Resident Stephen Antalics contended that much of the South Side has been allowed to deteriorate and be destroyed while Main Street has remained much the same and intact. Portions of the South Side could have been like Philadelphia's Reading Terminal Market. Instead, historic buildings on New Street were destroyed and are now a gas station. There are few properties on the South Side left to preserve. Mr. Antalics called for imagination. He, too, suggested that ArtsQuest could sell the Banana Factory property and buy former Bethlehem Steel land near Steel Stacks. ArtsQuest could include in this construction permanent structures to be used for Musikfest instead of the temporary tents. He added that he has the highest respect for ArtsQuest and Musikfest. But, that is not the issue. The issue is historic preservation.

*Do Not Erase Culture*

Elizabeth Saraceno has worked on some historical projects in the City, including the South Side. She was watching this meeting from home in Bethlehem Township and felt compelled to come in person to comment. To say that these buildings do not have value to the community would be remiss. Bethlehem's history is more than the Moravians and the German-Americans. There are other groups with an important history who lived and worked on the South Side. Buildings do not just have to be on the north side of town or be important to you as an individual to be important to someone somewhere. The arts are important, but to advocate for culture while erasing culture seems in opposition, at least to her.

*Honor the Past, Look to the Future*

Kevin Green of Allentown believes that things can exist in a new way and a re-imagined way. He believes this is what ArtsQuest has done. ArtsQuest has found ways to honor history and find new ways of bringing people together, not only from different walks of life but from different generations. How can we re-imagine the future and understand our past? He believes our past can empower the future. Honor the past, but do not let it slow us down from taking advantage of the opportunities in front of us.

5. OLD BUSINESS

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

6. COMMUNICATIONS

- C. *DCED Business Manager – Recommendation of Award – Mahan Rykiel Associates Inc. – Greenway New and 3<sup>rd</sup>*

The Clerk read a memorandum dated June 30, 2022 from Tiffany Wismer, DCED Business Manager recommending a contract with Mahan Rykiel Associates, Inc. for the conceptual design of the section of the Greenway between South New Street and West 3<sup>rd</sup> Street and to provide the related public involvement and outreach to achieve public input. The completion deadline is March 30, 2023. The cost of the contract is \$24,500. There are no renewals.

President Colón stated Resolution 10 C is on the agenda.

- D. *Director of Public Works – Recommendation of Award – Herbert, Rowland & Grubic, Inc. – Craig Avenue Swale Improvements*

The Clerk read a memorandum dated July 20, 2022 from Michael Alkhal, Director of Public Works, recommending a contract with Herbert, Rowland & Grubic, Inc. to improve the swale adjacent to 257 Craig Avenue. The term is 60 days. The cost of the contract is \$21,767. There are no renewals.

President Colón stated Resolution 10 D is on the agenda.

- E. *City Solicitor – Highway Safety Project Police Traffic Services Grant Proposal and Resolution*

The Clerk read a memorandum dated July 20, 2022 with an attached Highway Safety Project Grant Proposal and Budget Summary as well as a Resolution from John F. Spirk, Jr., City Solicitor. The grant proposal is to be submitted by the Bethlehem Police Department to the Commonwealth of Pennsylvania Department of Transportation. Upon approval, the grant would provide funds through September 30, 2023 for DUI program sobriety checkpoints and expanded DUI enforcement operations, as well as aggressive driving activities, occupant protection activities and pedestrian safety activities.

President Colón stated Resolution 10 E is on the agenda.

*F. City Solicitor – Highway Safety Project Health Bureau Services Grant Proposal and Resolution*

The Clerk read a memorandum dated July 26, 2022 with an attached Highway Safety Project Grant Proposal and Budget Summary as well as a Resolution from John F. Spirk, Jr., City Solicitor. The grant proposal is to be submitted by the Bethlehem Health Bureau to the Commonwealth of Pennsylvania Department of Transportation. Upon approval, the grant would provide funds through September 30, 2023 to address highway safety issues with intervention strategies targeting schools, community and family, health care, enforcement and industry/workplace.

President Colón stated Resolution 10 F is on the agenda.

*G. Business Administrator – EMS Grant for Ambulance – Amend Non-Utility Capital Fund*

The Clerk read a memorandum dated July 26, 2022 with an attached Ordinance from Eric Evans, Business Administrator, amending the 2022 Capital Non-Utilities Budget. The Fire Department received a \$37,000 PA Commissioner's EMS grant to assist with the purchase of a new ambulance scheduled for this year. The addition of the \$37,000 would increase the Non-Utilities Budget to \$18,038,862.

President Colón stated Ordinance 9 D is on the agenda for First Reading.

*H. Business Administrator – Police Body Cameras – Transfer of Funds*

The Clerk read a memorandum dated July 28, 2022 with an attached Resolution from Eric Evans, Business Administrator, to transfer \$200,000 from Account 69000-66025 "City Hall Garage Floor" to Account 69000-66103 "Police Body Cameras." The transfer is necessary to complete a 2018 contract with Motorola Solutions, Inc. for the purchase and support/maintenance subscription for 120 police body cameras.

President Colón stated Resolution 10 G is on the agenda.

*I. City Solicitor – Use Permit Agreement – Grace Church Bethlehem – Feed Bethlehem Event*

The Clerk read a memorandum dated July 28, 2022 from City Solicitor John F. Spirk, Jr. with an attached Resolution and Associated Use Permit Agreement. The Permittee is Grace Church Bethlehem and the event is Feed Bethlehem Event. The agreement is from 10:00 AM to 12 Noon on each of August 20, August 27 and September 17 of 2022 and covers the Johnston Park premises.

President Colón stated Resolution 10 H is on the agenda.

*J. City Solicitor – Use Permit Agreement – Seven Sirens Brewing – Bethlehem Beer, Wine & Cider Fest*

The Clerk read a memorandum dated July 28, 2022 from City Solicitor John F. Spirk, Jr. with an attached Resolution and Associated Use Permit Agreement. The Permittee is Seven Sirens Brewing and the event is the Bethlehem Beer, Wine & Cider Festival. The agreement is from 9:00

AM to 7:30 PM on September 4, 2022 and covers the areas of Danny Rice Field and between Lehigh and Spring Streets.

President Colón stated Resolution 10 I is on the agenda.

7. REPORTS

A. *President of Council*

B. *Mayor*

Mayor Reynolds noted that Musikfest will begin in a few days. He said this has included planning with ArtsQuest, police, fire and EMS to be prepared. He wanted to publicly thank the emergency personnel for its planning efforts with ArtsQuest to ensure a safe festival.

8. ORDINANCES FOR FINAL PASSAGE

A. *Bill No. 14-2022 – Enacting Article 343 – Southside II Local Economic Revitalization Tax Assistance (LERTA) Program*

The Clerk read Bill No. 14-2022 – Enacting Article 343 – Southside II Local Economic Revitalization Tax Assistance (LERTA) Program, sponsored by Ms. Leon and Ms. Wilhelm and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF  
LEHIGH AND NORTHAMPTON, COMMONWEALTH OF  
PENNSYLVANIA, ENACTING ARTICLE 343 OF THE CODIFIED  
ORDINANCES ENTITLED LOCAL ECONOMIC  
REVITALIZATION TAX ASSISTANCE – SOUTHSIDE LERTA  
DISTRICT II

President Colón said there are three proposed Amendments that have been introduced by Council Members. This Ordinance has been discussed at Committee, a Public Hearing, the First Reading and tonight is the Second Reading. President Colón said that, procedurally, each Amendment would be introduced one at a time. Votes on the Amendments would be taken after each is read and discussed.

Asked if the Administration had any comments before the Amendments were read, Mayor Reynolds noted that this Ordinance has been discussed a lot and there has been one postponed vote. He appreciated Council's consideration but noted the schedule that is necessary in moving it to the two other affected taxing entities – Northampton County and the Bethlehem Area School District – to try to reach a conclusion. The Mayor also referred to a memo that was sent late in this afternoon by DCED Director Laura Collins and said the Administration is prepared any questions.

President Colón asked the Clerk to read Amendment 1:

Amendment 1 is proposed as follows:

That Section 1: Article 343-Lists of Definitions, that reads as follows:

343.11 Contingency

Subsection (9) "Municipal governing body" means the City of Bethlehem

Shall be amended to read as follows:

(9) "Municipal governing body" or "the City" means the City of Bethlehem

That Section 343.01, subsection (11) shall be added:

(11) "Delinquent property owner" means a person, whose taxes on any real property with the City are delinquent and in whose name the property is last registered, if registered according to law or, if not registered according to law, the person whose name last appears as an owner of record on a deed or instrument of conveyance recorded in the county office designated for recording. In all other cases, the term means a person in open, peaceable and notorious possession of property as apparent owner or reputed owner of the property.

That Section 343.05 subsection (a), Notice to Taxpayers shall be added:

(a) No property is eligible, and no property will remain eligible in the event that an exemption was previously approved, for a property tax exemption under Article 343 if the owner of the property is delinquent on the payment of taxes due on any real estate in the City of Bethlehem.

That Section 343.05 subsection (c), Notice to Taxpayers shall be added:

(c) A taxpayer whose property is subject to the LERTA exemption under this Article shall furnish a copy of this Article to any prospective purchaser of the property by attaching it as an addendum to any offer to purchase or agreement of sale.

That Section 343.07 subsection (d),

Shall be amended to read as follows:

(d) Except in the case of default by a taxpayer in paying all real estate taxes imposed by local taxing authorities by the end of the fiscal year in which such taxes are due on a property qualifying for an exemption under this Article, any property tax exemptions granted under the provisions of this Article shall be permitted to continue according to the Exemption Schedule found in Section 343.04, even if this Article expires or is repealed.

That Section 343.11, CONTINGENCY

Shall be amended to read as follows:

### 343.11 OTHER LOCAL TAXING AUTHORITIES.

The Bethlehem Area School District and the County of Northampton, as local taxing authorities, may enact ordinances or resolutions similar to this Article, which shall include the identical deteriorated area as that designated by the Council of the City of Bethlehem in Resolution No. 2022-xxx.

That Section 343.12, DEFAULT

### 343.12 DEFAULT.

(a) It is the finding of the Council of the City of Bethlehem that, consistent with LERTA's expressed objective of improving deteriorated areas containing unsafe, unsanitary and overcrowded buildings; vacant, overgrown and unsightly lots of ground; a disproportionate number of tax delinquent properties, excessive land coverage, defective design or arrangement of buildings, street or lot layouts; and economically and socially undesirable land uses, the receipt of LERTA exemptions should be limited to those property owners who make full and timely payment of their property taxes, as delinquent property owners are more likely to be financially overextended and thereby less capable of maintaining the sustained investment in properties in economically depressed communities that is vital to their improvement.

(b) Tax exemptions under this Article shall be available only for those properties for which real estate taxes are promptly paid and discharged by the end of the fiscal year in which such taxes are due.

(c) In the event a taxpayer fails to pay all real estate taxes imposed by any local taxing authority by the end of the fiscal year in which such taxes are due on a property qualifying for an exemption under this Article, the property shall be disqualified from the benefits of this Article beginning in the year during which the delinquency occurred through the end of the applicable Exemption Schedule set forth in 343.04, and any and all currently due and future taxes on the property shall be due and payable at the full unabated assessment and tax rate.

(d) No property shall be eligible for the tax exemptions under this Article if the owner thereof owns any property in the City that is declared delinquent as established by the statutes of the Commonwealth of Pennsylvania. In the event that a property receiving LERTA benefits under this Article is purchased by a delinquent property owner, the purchased property shall lose LERTA benefits under this Article and any and all currently due and future taxes shall be due and payable at the full unabated assessment and tax rate.

(e) Where a property's LERTA benefits have been terminated due to tax delinquency pursuant to this Section 343.12, the delinquent property owner's subsequent payment of delinquent taxes shall not result in the reinstatement of LERTA benefits.

Sponsored by Ms. Kwiatek  
Ms. Crampsie Smith

President Colón asked for discussion on the Amendment.

Ms. Kwiatek said that the intention of adding this language was to make doubly and triply sure that no participant receiving a benefit of a tax abatement plan was delinquent on taxes owed to the City.

Ms. Crampsie Smith thanked Councilwoman Kwiatek for adding this Amendment. She, too, believed that this area of responsibility should be added for anyone who received tax abatement.

Ms. Wilhelm agreed.

Voting on Amendment 1 -- AYE: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. The Amendment passed 7-0.

President Colón next asked the Clerk to read Amendment 2.

That Section 1: Article 343-Lists of Definitions shall be amended to add 343.05 LEED Exemption Schedule. This would renumber the following:

- 343.06 Notice to Taxpayers.
- 343.07 Procedure for Obtaining Exemption.
- 343.08 Termination.
- 343.09 Hearing Board.
- 343.10 Rules and Regulations.
- 343.11 Severability.
- 343.12 Contingency.
- 343.13 Default.
- 343.14 Appeal of Default.

Also , that Section 343.01, subsection (8),

- (8) "LEED Certification" means the Leadership in Energy and Environmental Design (LEED) and the green building certification developed by the non-profit U.S. Green Building Council.

That Section 343.01, subsection (9), (10), and (11) shall read as follows:

- (9) "Local taxing authority" means the City of Bethlehem, the Bethlehem Area School District, the County of Northampton, or any other governmental entity having the authority to levy real property taxes within the City of Bethlehem.
- (10) "Municipal governing body" means the City of Bethlehem.
- (11) "LERTA" means the Local Economic Revitalization Tax Assistance Act, 72 P.S. § 4722 et seq.

That Section 343.02, subsection (b) shall be added:

Units set aside for affordable housing by qualified persons shall satisfy the following criteria throughout the exemption period established pursuant to the Exemption Scheduled in Section 343.04 and Section 343.05:

That Section 343.03 ELIGIBLE EXEMPTION AMOUNT subsection (c), Notice to Taxpayers shall be added:

- (c) For new construction or improvements subject to Section 343.02 above wherein (1) 10 or more dwelling units are made solely available for use as dwelling units; and (2) 10% of those dwelling units so-created are set aside and reserved exclusively for affordable housing by qualified persons meeting the requirements of Section 343.02(b) above, the amount eligible to be exempted shall equal 100% of the assessment attributable to the actual cost of qualifying new construction or improvements, provided that in the event compliance with the requirements of clauses (1) or (2) of this subsection (c) ceases at any time during the period in which a property is subject to the Exemption Schedule set forth in Section 343.04, and Section 343.05, the property shall be disqualified from the exemption allowed by this Article retroactive to the date the application for such new construction or improvements shall have been filed with the City of Bethlehem. As a result of such noncompliance, the record owner of the property at the time of such noncompliance shall be liable for payment of 100% of the assessment attributable to the actual cost of the new construction or improvements retroactive to the date that the application for such new construction or improvements shall have been filed with the City of Bethlehem, which amount shall also constitute an immediate lien on said property, together with all charges, expenses, and fees incurred in the collection of any delinquent account, including reasonable attorney fees, and be collectible in the manner provided by law for municipal liens.

That Section 343.04 EXEMPTION SCHEDULE, the following shall be added:

Subject to the conditions, requirements, and limitations set forth in this Article, taxpayers making assessable improvements, including new construction, to a deteriorated property may apply for and may be granted a real estate tax exemption limited to the eligible amount specified in Section 343.03 above,

In the event taxpayers are eligible for a real estate tax exemption but have not achieved any level LEED Certification, the taxpayer's tax exemption shall be subject to the following schedule:

That Section 343.05 LEED EXEMPTION SCHEDULE, shall read:

In the event a taxpayer is eligible for a tax exemption schedule under Section 343.04 of this Article and the taxpayer has achieved one of the four specified



levels of LEED Certification for the subject property, the taxpayer shall have the option to elect to the corresponding tax abatement schedule.

Should a taxpayer's property be LEED Certified, subject to the requirements of Section 343.03 and Section 343.04 of the Article, the taxpayer may elect to have the following tax abatement schedule:

For the first year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.

For the second year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.

For the third year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.

(1) For the fourth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.

(2) For the fifth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.

(3) For the sixth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.

(4) For the seventh year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.

(5) For the eighth year immediately following the date upon which the improvement becomes assessable, 30% of the eligible assessment shall be exempted.

(6) For the ninth year immediately following the date upon which the improvement becomes assessable, 30% of the eligible assessment shall be exempted.

(7) For the tenth year immediately following the date upon which the improvement becomes assessable, 30% of the eligible assessment shall be exempted.

(a) Should a taxpayer's property be LEED Silver Certified, subject to the requirements

of Section 343.03 and Section 343.04 of this Article, the taxpayer may elect to have the following tax abatement schedule:

- (1) For the first year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (2) For the second year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (3) For the third year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (4) For the fourth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (5) For the fifth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (6) For the sixth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (7) For the seventh year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (8) For the eighth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (9) For the ninth year immediately following the date upon which the improvement becomes assessable, 20% of the eligible assessment shall be exempted.
  - (10) For the tenth year immediately following the date upon which the improvement becomes assessable, 20% of the eligible assessment shall be exempted.
- (b) Should a taxpayer's property be LEED Gold Certified, subject to the requirements of Section 343.03 and Section 343.04 of this Article, the taxpayer may elect to have

the following tax abatement schedule:

- (1) For the first year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (2) For the second year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (3) For the third year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (4) For the fourth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (5) For the fifth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (6) For the sixth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (7) For the seventh year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (8) For the eighth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (9) For the ninth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
- (10) For the tenth year immediately following the date upon which the improvement becomes assessable, 10% of the eligible assessment shall be exempted.

- (c) Should a taxpayer's property be LEED Platinum Certified, subject to the requirements of Section 343.03 and Section 343.04 of this Article, the taxpayer may elect to have the following tax abatement schedule:
- (1) For the first year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (2) For the second year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (3) For the third year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (4) For the fourth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (5) For the fifth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (6) For the sixth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (7) For the seventh year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (8) For the eighth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.
  - (9) For the ninth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.

- (10) For the tenth year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.

NOTICE TO TAXPAYERS is now numbered to read 343.06, PROCEDURE FOR OBTAINING EXEMPTION is renumbered to be 343.07, TERMINATION is now renumbered to be 343.08.

In (d) shall be added:

(d) Except in the case of default by a taxpayer in paying all real estate taxes by the end of the fiscal year in which such taxes are due on a property qualifying for an exemption under this Article, any property tax exemptions granted under the provisions of this Article shall be permitted to continue according to the Exemption Schedule found in Section 343.04, even if this Article expires or is repealed. In the event a taxpayer fails to pay all such real estate taxes by the end of the fiscal year in which such taxes are due, the taxpayer shall be disqualified from the benefits of this Article beginning in the year during which the default occurred through the end of the applicable Exemption Schedule set forth in 343.04 and 343.05

Also renumbered are:

343.09 HEARING BOARD

343.10 RULES AND REGULATIONS

343.11 SEVERABILITY

343.12 CONTINGENCY

343.13 DEFAULT

343.14 APPEAL OF DEFAULT- shall be added:

Properties that have been declared delinquent may appeal the rescission of LERTA benefits by providing a written request to the Hearing Board providing a basis for the appeal and the justification for the waiver of the requirements of Section 343.132.

Sponsored by: Ms. Wilhelm  
Ms. Crampsie Smith

Ms. Wilhelm reminded that LEED stands for Leadership in Energy and Environmental Design. This is a certification rating system that provides a rating system for the construction of green buildings and helps the owners adhere to more environmentally responsible principles. This Amendment came as a result of conversations with herself, other Council Members and the

Administration in the interest of including a component designed to address the environmental impact of development in this new LERTA zone in particular the impact of industrial development which makes up all but 17 acres of this new approximately 250-acre zone. Through a tiered tax abatement structure, the Amendment provides tax benefits that increase as these higher levels of certification are achieved, Certified, Silver, Gold or Platinum. This amendment incentivizes the highest level of LEED certification. It is a compromise, but it is a step in the right direction. She thanked DCED Deputy Director Alicia Miller Karner and Council Solicitor Brian Panella for their work in researching and drafting it.

Ms. Leon said LEED can be used to incentivize decarbonization and it is very important.

President Colón also thanked those involved in crafting the Amendment.

Mayor Reynolds added thanks to Attorneys Spirk and Deschler from the Law Bureau for their part in it.

Voting on Amendment 2 -- AYE: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. The Amendment passed 7-0.

President Colón asked the Clerk to read Amendment 3.

#### 343.03 ELIGIBLE EXEMPTION AMOUNT

(d) The record owner of a property seeking an exemption pursuant to subsection (c) above shall have the option to make a minimum contribution of \$52,320 for each unit required to be designated for affordable housing under this Article if such record owner elects not to actually set such unit aside for affordable housing but still desires the exemption allowed by this Article. The record owner shall have the right to exercise this option and pay this contribution only at the time of filing the application for a building permit for the new construction or improvements and shall only be required to pay this contribution one time. The record owner has the option to pay this contribution over a five -year period from the time of filing the application for a building permit for the new construction or improvements, and shall be required to pay a minimum of one-fifth of their total contribution every year over the five-year period, with each installment due one, two, three, four, and five subsequent years from the date of the initial contribution. Failure to pay the fee in a timely manner will exclude recipients from continuing tax exemptions.

The contribution authorized by this subsection (d) shall be held by the City Business Administrator in a segregated interest-bearing fund account designated solely for the purposes of advancing affordable housing throughout the City through a program of low interest loans or forgiveness grants to persons of low, very low, and extremely low income as may be determined by the poverty guidelines of the United States Department of Housing and Urban Development then-prevailing at the time of distribution of such loans or grants. Money so-collected must be accounted for and expended solely for such purposes within the territorial boundaries of the City of Bethlehem. Such fund shall also be subject to an annual administrative charge of the City associated with the management of the Southside LERTA District II and distributions from the fund, but such annual administrative charges shall not exceed 1% of the contribution made under this subsection (d).

Sponsored by: Ms. Crampsie Smith  
Ms. Kwiatek

Ms. Crampsie Smith clarified a paragraph stating that the in lieu of LERTA contribution would be calculated in January of every year to reflect market fluctuations and rental fees. She added this to be fair to the developers in case the rental rates declined. She added that she understood that it was recommended by the Administration to delete this language, so she requested that it be deleted from her Amendment.

President Colón noted that the Clerk did not read that portion of the submitted Amendment because it was known that Ms. Crampsie Smith wished to have it deleted. It is not included in the Amendment for consideration.

Ms. Crampsie Smith said in 2021 the City Administration proposed a new LERTA and noted trends to include substantial need for new housing, substantial increase in housing costs, and a lack of affordable housing. The City Administration also noted that LERTA is a widely used, fiscally responsible tool to develop underutilized properties and would be a highly effective solution for increasing affordable housing units in the City. There is no doubt in anyone's mind that we have a housing crisis due to a lack of housing in general and especially lack of affordable housing and this problem has only worsened in the last year. Last year I advocated mandating for the first time that the recipients of the LERTA either develop 10 percent of affordable units in their project or they pay a fee in lieu to go to a housing trust fund. In my contacts with municipalities throughout the state and the country who mandate the in lieu of formulas, I found that all fees were in the 6-digit range, averaging from \$108,000 to \$180,000. Our partners in Pennsylvania, State College and Pittsburgh, currently have fees of approximately \$130,000 and State College Council Members are currently considering raising their fee in lieu. The City and Council participated in the N.Y.U. Housing Solutions Workshop last fall and last winter. The participants and the experts in the field at that workshop stated that our current fee was certainly too low.

My formula employs the affordability gap method whereby I took the current average rental cost for a two-bedroom rental unit in Bethlehem minus the current fair market rent and multiplied the difference by 12 months and then by 10 years, which is the length of the LERTA. Based on these calculations, the fee in lieu should \$104,640. However, in fairness as well as cautiousness that too high a fee might deter development, I have divided this fee in half to come to \$52,320. This means a fee in lie of \$52,320 would be paid for every 10<sup>th</sup> unit that would otherwise be an affordable unit.

I also added that developers could pay this fee over a five-year period if they did not want to pay it all at once. I added that in consideration for newer developers who may not have the capital available at the time they are requesting the LERTA. We understand that we must consider other unexpected costs of developing brownfields. Concurrently, most homeowners incur unexpected home maintenance repair costs and we made them pay a tax increase during covid, so if we could do that, why would we not assure that the developers are paying their fair share. The average total tax relief to developers over the 10-year course of the LERTA can raise \$1 million to \$2 million. Given this significant tax relief, I feel a fee in lieu of \$52,320 is more than fair. As stewards of taxpayer funds, we must assure that we not continue to provide an

exemption of tax dollars without at least a somewhat fair fee in lieu to promote inclusion and equity. And, as such, I ask my fellow Council people to support this increase in fee in lieu so we can truly forge ahead in our attempts to achieve housing that is truly inclusive and equitable in Bethlehem.

Dr. Van Wirt thanked Ms. Crampsie Smith for her work in coming up with this fee, including her work in making contacts to come up with real data on which to base this fee.

Ms. Kwiatek had a question for the Administration. She said that Ms. Crampsie Smith used a formula, and the Administration used a formula mentioned in a memo of some weeks earlier. The Administration also used an affordability gap method that used HUD standards multiplied by the period of affordability to come up with \$42,450. She asked for an analysis that would explain the difference that led to two different figures.

Ms. Karner said she first wanted to correct some comments made during this meeting. She said the fees that Ms. Crampsie Smith referred to are not LERTA fees. They are not payment in lieu of related to LERTA. They are about inclusionary zoning which is "murky legal water for the City of Bethlehem as a Third-Class City." It is an entirely different game into which they are instituting those fees in than what we are. She said the numbers have nothing to do with LERTAs and payment in lieu of fees related to affordable housing.

As for figures in the memo, Ms. Karner said she took rental rates in the City of Bethlehem and subtracted the amount established by HUD using 8 percent AMI, 30 percent of affected people's income as deemed to be affordable and what is written into the Ordinance. She then factored that in over the 10-year period of the LERTA. The dramatic difference is the starting point of the numbers. Ms. Karner said that she did not randomly pick five different complexes to call to find rental price points. If you pulled the data from the Furman Center, the median rental rate in the City of Bethlehem is much lower than the numbers that have been presented to you. We tried to present reasonable numbers that are reflective of the total City of Bethlehem to try to calculate that fee. In summary, they took rental rates, subtracted affordable and came up with the fee over 10 years. They did not divide it in half. She added that the affordability gap method is an accepted industry standard. The recommended in lieu of fee was reflective of the areas within the LERTA zone, the challenges of development, the deteriorated and blighted properties, all of those other factors that you have heard me speak of to incentivize development in those areas using the tool of LERTA. If it is cheaper for a property owner to put an affordable person in that unit, we are not going to get anything, and so that has been the consistent argument both then and now on why we need to present a reasonable figure.

Mayor Reynolds added that the City is trying to incentivize the incentive here. Using \$26,350 is much better for the City to get the money toward affordable housing. If you have both options and you make the fee too high, you will not get the money. They will put people in 10 percent of the affordable housing units. The ability to get the money allows the City to leverage other funds. That is how a lot of these other projects come together. The value for the City is to get the money. Legally, the choice must be given to the developer. As Ms. Collins' memo dated today states, Council is asked to pick a rational formula that references the market rate throughout the City to utilize the data that Ms. Karner and Ms. Collins and the professionals have used to put something together, not picking five apartment complexes to come up with an average. That does not make any rational sense. He said if Council chooses to go higher than the in lieu of fee of



\$26,350, it is a bet as to whether a year or so from now and developers pick the units instead of the fee, that will be a loss for affordable housing. He just requested that they base the fee on a rational number.

Ms. Kwiatek said she would feel more comfortable with the Administration's formula and a standpoint of the incentive to pay the fee in lieu of if it were the \$42,450.

Ms. Crampsie Smith wanted to clarify that Pittsburgh is using a LERTA and they use a fee in lieu. She said incentivizing affordable housing is incentivizing affordable housing and that is something that we need to do. Density bonuses, parking, tax incentives, whatever it takes. This is a way and as the City stated last year that this is a way to work toward affordable housing. When we talk of the fee in lieu of being better, the people who I have spoken to, including the Regional Housing Legal Services which is a group of lawyers who have been advocating for affordable housing for years throughout this state, they feel that really doing the units is better to create affordable housing because what we are doing in getting a fee in lieu is really continuing to segregate both based on socio-economic status because we're getting the fee in lieu and will add it to a trust fund, but if we can get the developers to do the 10 percent, we will have people from different levels of socio-economic status living together. That is what inclusion and equity truly is.

As far as this not being a rational formula, I have to disagree. This is based on a peer review. 85 percent of the development in the last five years in the City has been Rental Residential Development and most of them have been high-end luxury. It is important to include accurate data. The data with the 42 is including rentals from many years ago. I was using current data, the current fair market rate data for rentals as well as the fair market value, so I have to disagree with the statement that this is not a rational formula. Again, we talk about doing something for affordable housing. I feel like we have not done enough. When we think about what the developers are getting out of this, I cannot see how anyone can disagree that \$52,000 is not fair when you are looking at them saving between \$1 million and \$2 million over 10 years and this is taxpayer money.

Ms. Kwiatek asked if the developer chooses to build affordable rental units instead of paying the in lieu of fee, how long would the developer be bound by the affordable rent requirement?

Ms. Karner said 10 years. It is tied to the LERTA period. She added that there is an added burden to the City to enforce that rules are being followed if the developer chooses to provide the units. It is a little less desirable. She added that in the NYU workshop, she learned that most states prefer placing those in the affordable housing program group all program apartments together because they can group services. It is easier case management.

Ms. Karner also said that Pittsburgh has both inclusionary zoning and LERTA. The reason they have LERTA is because they created inclusionary and they are being sued over it.

Ms. Karner also explained her reasoning for basing her formula numbers on all 14,000 rental units in the City because this is data independently collected and used by the Census Bureau, the Lehigh Valley Planning Commission, the Furman Center, etc. It is data that can be relied on when wanting to calculate the fee. Rental housing must be considered within the whole portfolio. We want to use data that is truly reflective of this community, not just a couple of

projects. We want to use data that is reliable. It is independently accessed, and it is clear on how we are creating this formula. It is not just based off of random phone calls to a couple of our least favorite developers.

Mayor Reynolds also said that this is about the person who is going to get helped. If you could integrate units with low, middle and high income, that would be great. But what ends up happening is that the way that people end up qualifying these is as far as income. You could get Lehigh students living in this, and that would qualify as an affordable unit. You could get me as a 26-year-old teacher based on what these HUD definitions are for affordable housing, and that is not the person that we are trying to help. The one thing that I think that we can all agree on is the fact that the people that are under the 30 percent, that number that we talk about all of the time, we're trying to direct it there. But, if we pick the units here, those are not the people that are going to be living in these units. This is not going to do what we think it is going to do. People are going to find a way around it. And they are going to find a way to be helping people.

The Mayor also said that only two out of the five rental developments used in Ms. Crampsie Smith's formula are located on the South Side. We just do not think that this is the best way to come up with this particular formula. He also referred to Ms. Karner's comments that Pittsburgh is currently being sued. There is a value in not getting sued. The \$200,000 collected in 2021 did not include legal costs. It is pure money to be used toward affordable housing and that can be leveraged into other things. The biggest thing that we have come up with over and over again, is that if people pick the units, the people that they will be helping out are not as sympathetic as the people that we want to be helping out in this.

Ms. Wilhelm wanted to clarify for anyone alarmed with talk of litigation that Council is not voting on inclusionary zoning tonight. By voting in favor of this amendment, we are not putting ourselves in that position. She said she very much appreciates solid data and appreciates apples to apples comparisons. She agreed with Ms. Kwiatek and asked what the benefit would be of using data from development unlike what would be built within the LERTA zone.

Ms. Crampsie Smith wanted to clarify that in the peer review of developments, there were some that were lower end, so she felt confident in her formula. She also wanted to note that she spoke to legal counsel who are defending the Pittsburgh lawsuit, and they feel that they have a strong case. She also read that the California Supreme Court recently upheld a fee in lieu litigation in favor of a municipality. There are many cases in which the fee in lieu has been upheld. And often people in affordable housing will say that scare tactics are used. Developers say it all the time. I understand there's a possibility, but I feel strongly that we are fine with this formula.

Mayor Reynolds asked Ms. Karner where she got her average market rent from.

Ms. Karner said she took a similar approach to try to understand what the rental rates were in the City of Bethlehem. The average market rate came from the Furman Center.

Mayor Reynolds said the numbers used for the Administration's formula came from the N.Y.U. cohort the City went through. The numbers used for the formula used by Ms. Crampsie Smith "came from a couple of phone calls."

President Colón noted that last year he supported \$25,000, this year he would be supporting \$26,350. He would not be in favor of \$52,320. He believes that is too high. He noted that to date, \$200,000 has been collected from the in lieu of fee (one project's worth). What is evident is that we just shrunk the previous LERTA (by 85 percent), these parcels – all but two – were included in the previous LERTA, it is not as if the opportunity had not previously been given to capitalize on tax incentives. There also is uncertainty and challenges that developers will face when developing these properties. But we are also adding an extra layer with the in lieu of fee. There is a delicate balance. Last year I supported \$25,000. This year I support \$26,350. We are just looking to allow people to capitalize on these opportunities. Not that any particular number would be that tipping point, but history has shown us that these parcels have not been easy to turn into something already, and I think that as we add fees and payments and costs on top of that, even with the market being what it is, there are still challenges over there. I would support a tool that has more utility rather than less.

Ms. Leon asked Solicitor Panella the likelihood of legal action being taken involving this matter.

Solicitor Panella said he understood the points made by Ms. Collins in her memo dated earlier today. However, he said he was comfortable with the amounts being proposed and that it is just a matter of Council determining the number it is comfortable with.

Dr. Enix said she had the same legal question. She also sought clarification on the size of the LERTA zone. Ms. Karner said about 17 acres of about 250 acres, most of which is in the former Bethlehem Steel industrial area. Under LERTA, these are considered “deteriorated properties.”

Ms. Crampsie Smith wanted to clarify the legal issues. She believed that setting the \$25,000 figure last year was a “dicier” proposition than the amount proposed this year because it was not even based on a formula. She also asked if the \$42,450 fee is supported by the Administration this year, why was this not the number last year. She also took offense that her research efforts were referred to as “a couple of phone calls made.” She said she is confident that she consulted with experts in the field. We looked at the data together and we came up with this formula. I did not do this alone, and I did not just make a couple of phone calls to find out the market rental value in Bethlehem.

Ms. Collins said the \$25,000 reached last year was spelled out in a 2021 memo. The \$42,450 was an amount reached using the affordability gap formula. It was presented last year. It was mentioned in her memo of earlier today, and then there were a number of considerations taken into account to lowering that number to \$25,000. It was not just what the developers would be OK with. It took into account the cost of construction and the potential pitfalls to these sorts of properties. It took into account what we spend and what we see in our department on housing rehab. It was very well thought out to get to that number. She also wanted to point out that, as the Amendment reads now, there was a five-year period in which a developer could pay the \$52,320 fee. That also is problematic for a couple of reasons, including that it really incentivizes for the developer based on the declining tax abatement schedule. It incentivizes a failure to pay down the road. It would be much more beneficial to the City to have all of that money up front. We can leverage those dollars. They are guaranteed dollars if we get them at the start of the project.

Mayor Reynolds also said that the fee is given to the developer once they pay the fee. Once you give someone the permit and the project is built, with the declining tax abatement present, there is an advantage to pay the fee in the first and second year and then not necessarily pay in years three, four, and five. Once the project is already built, that becomes a practical and legal problem. If the project gets sold after a year or two.

President Colón said that before they vote, was there any member of Council who wished to proposed other Amendments.

President Colón made a motion to delete from Amendment 3 the five-year installment period option. Eliminating the installment option would give the City money sooner. Ms. Wilhelm seconded the motion.

Solicitor Panella pointed out that, according to "Roberts Rules of Order", any discussion before a vote is taken must pertain to the motion on the floor because there is a motion and a second.

Dr. Enix asked at which point the total payment must be made. Ms. Collings said when the permit is issued.

Ms. Leon explained that the rationale for offering the installment option in the Amendment was to help the developer and to incentivize development of land in the LERTA district.

Ms. Crampsie Smith added that she was thinking about newer developers in particular who might not have the capital to be able to pay the whole amount up front. She added that she believed the City would be covered if the developer sold to a new owner. That new owner would still be required to pay the balance of the in lieu of installments in order to continue to received the LERTA tax abatement.

Ms. Collins said the Amendment, as written, did not really spell that out.

Mayor Reynolds reiterated that the declining rate of what developers are paying in taxes is a disincentive for people to pay later on. And, once the project is built, trying to get that back from them is extremely problematic – legally problematic.

Voting on the Amendment to delete the installment language -- AYE: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. The Amendment passed 7-0.

President Colón asked if anyone wanted to propose and Amendment before the roll is called on Amendment 3. Ms. Kwiatek proposed an Amendment that would replace the in lieu of amount of \$52,320 with the amount \$42,450. President Colón seconded the motion.

Ms. Kwiatek based this figure on her comfort level with data and belief this amount is a significant increase over the \$25,000 figure. The is more confident that this is a solid number.

Ms. Crampsie Smith said that when you are talking about adding \$16,000 more versus developers saving \$1 million to \$2 million over 10 years, she believes it is disheartening when it comes to affordable housing.

Ms. Kwiatek added that the reason for the incentive in the first place is that these land parcels are difficult to develop, so she believed that both development and money toward affordable housing goals could be achieved. There has to be the incentive of a tax savings or they will not develop the land to begin with and we get zero.

Voting on the Amendment to reduce the minimum contribution \$42,450 -- AYE: Ms. Kwiatek, 1. NAY: Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 6. The Amendment failed 1-6.

President Colón observed that the in lieu of fee in Amendment 3 remains at \$52,320. He said he would be supporting LERTA as a whole even though he would favor the lower number of \$26,320. He said time will tell which would be best.

Voting on Amendment 3 with the in lieu of fee of \$52,320 - AYE: Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, and Dr. Enix, 5. NAY: Ms. Kwiatek and Mr. Colón, 2. The Amendment passed 5-2.

President Colón next asked the Clerk to call the roll on LERTA as amended with Amendments 1, 2 and 3 – AYE: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colon, 7. LERTA, with its three amendments, Bill No. 14-2022 now known as Ordinance No. 2022-14 was passed 7-0 on Final Reading.

B. Bill No. 15-2022 – Amend Article 1501 – 2018 International Fire Code

The Clerk read Bill No. 15-2022 –Amend Article 1501 – 2018 International Fire Code, sponsored by Ms. Kwiatek and Dr. Enix and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH  
AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA,  
AMENDING ARTICLE 1501 OF THE CODIFIED ORDINANCES OF THE CITY  
OF BETHLEHEM TITLED FIRE SAFETY AND CODE ENFORCEMENT  
INSPECTION FEES

Ms. Kwiatek asked if the Administration could address tonight's comments made by Mr. Meshaw. Deputy Fire Chief Craig Baer said that this is the third time within his tenure that he has amended the fire code. Each time, the Builder's Association has opposed amendments. The previous two times they have spoken with the Law Bureau. The Deputy Chief said that he spoke with someone from the organization two weeks ago prior to the First Reading – he was uncertain whom. Deputy Chief Baer provided his contact information. He also offered that if there were questions or concerns, the caller could discuss it with the Law Bureau prior to the vote. Deputy Bear said he heard nothing since. He added that the most recent updates were developed with the guidance of the Law Bureau, as they have been in the past.

Voting AYE: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. Bill No. 15-2022 now known as Ordinance No. 2022-15, was passed 7-0 on Final Reading.

C. Bill No. 16-2022 – Amend Article 1159 – Animals – Chicken Ordinance

The Clerk read Bill No. 16-2022 –Amend Article 1159 – Animals – Chicken Ordinance, sponsored by Ms. Kwiatek and Dr. Van Wirt and titled:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BETHLEHEM, LEHIGH AND NORTHAMPTON COUNTIES, PENNSYLVANIA, AN ORDINANCE PERMITTING THE KEEPING OF BACKYARD CHICKENS IN RESIDENTIAL AREAS IN LIMITED QUANTITIES AND UNDER CERTAIN CONDITIONS BY AMENDING ARTICLE 1159 OF THE BETHLEHEM CITY CODE

President Colón asked the Clerk to read Amendment 1 received from a Council Member.

Section E shall be amended to include a new section as follows:

- 5) A max amount of forty (40) permits shall be issued. At no time shall the amount of permits issued exceed forty.

Sponsored by: Ms. Kwiatek  
Dr. Van Wirt

Dr. Van Wirt said when she first proposed this Amendment to the Animal Control Ordinance, she attempted to coordinate with the Administration to ensure that we are considering all aspects of introducing urban chickens into Bethlehem. After discussion with the Administration, she said her intention is to introduce this as a pilot project so that we could take a limited number of coops and see over the course of a year what it would look like – whether problems encountered are health, nuisance, utilization of administration resources, animal control officer issues. Let us get some data. We have several ways for residents to relay their concerns and see what those are. We would take an analytic look after up to 40 coops and one year at what we experience. Based on that, we could modify the Ordinance, open it up to more coops, consider different ways of handling problems that arise or, in the worst-case scenario, rescind it.

Ms. Crampsie Smith said she had initial reservations about this Ordinance, but she is impressed with how thorough it is. She spoke with several doctors and veterinarians who say that there is no health risk. This is a growing trend, and she likes that it is a pilot project that can be evaluated.

Ms. Leon said she supports the Amendment and believe that some work still can be done to it, but she believes the pilot project will allow those elements to emerge and necessary changes made. Since animal control is involved, she believes this would be a good topic for the Public Safety Committee in a year.

Voting on the Amendment. AYE: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. The Amendment passed 7-0.

President Colón said he consulted with Solicitor Panella and is proposing a second Amendment. This second Amendment would have to be advertised, however, if a majority of Council supports the Amendment. He summarized it to say that this would have Council set the permit fee, put all oversight to the animal control officer, and capping the number of chickens.

Dr. Van Wirt supported this Amendment. She said the elements have been added with the suggestions of those who are experienced in dealing with animals.

Mayor Reynolds said that City Council is able to legalize chickens. He said he wanted to address a couple of things. First, he said he would have moved up the Certificate of Appropriateness to the beginning of tonight's meeting so that the majority of the large crowd present would not have to have sat through this lengthy meeting. The process that Council has undertaken here, that we talked about briefly last time, has had an effect on City Hall. The effect that has occurred in the City is that people think that chickens are legal to have right now. There is a reason that you are seeing people sitting over here that are not usually at these meetings. And, I did not ask them to come to this meeting. But we have had more conversations over the past two weeks with people calling the City asking for permits, coming inside, calling the Mayor's Office saying when can I get my chickens. When can I legalize my chickens? One person even called and said, "What do you do about dreamer chickens?" the idea that chickens are here illegally now, but do they get one of the 40 permits? Kind of like dreamers like President Obama talked about. Those are the conversations that we have had to have over the past two weeks. And, if you take Ms. Wenrich, for example, her conversations have been about Monkey Pox, covid, community connections, healthcare workers and chickens. We have 40 vacancies right now inside City Hall.

I was up there talking to Angie about homelessness, talking to people on the phone. There are a lot of things that are on fire right now around this place. On a 1 to 10 level, they are 11's. The urgent implementation of chickens and avoiding committee meetings is not an 11 for us right now. And this is not an easy process. And if you pass it two weeks from now, the implementation, what it takes, is not an easy process either. So, I am just saying that when we make comments to the newspaper and say people will have chickens in a month or two months or by the fall, that has a real world-effect consequence on people that are here throughout the day. And that just needs to be said. What goes on inside this room is not within a vacuum. And there are 15 or 20 employees here who I'm sure some people do not recognize. There are probably 30, 40, 50 or 60 more people inside this building that are frustrated by the amount of time that they have had to spend on chickens over the past two weeks. Once again, City Council, you absolutely can do what you want to do. But it needed to be said. As I told you last time, my feelings toward chickens are not nearly what other people's are. And we have had a lot of people reach out to talk about this with the Mayor's Office.

President Colón made a motion to postpone the second reading of the Chicken Ordinance amending Article 1159 until Council's second meeting in August. Ms. Kwiatek seconded the motion.

Voting AYE: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. The motion to delay the second reading passed 7-0.

D. *Bill No. 17-2022 – Amend 2022 General Fund Budget*

The Clerk read Bill No. 17-2022 –Amend General Fund Budget, sponsored by Ms. Kwiatek and Dr. Enix 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: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. Bill No. 17-2022 now known as Ordinance No. 2022-17, passed 7-0 on Final Reading.

9. NEW ORDINANCES

A. *Bill No. 18-2022 – Amend Zoning Ordinance – Part 13 - Definitions*

The Clerk read Bill No. 18-2022 –Amend Zoning Ordinance – Part 13 – Definitions, 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 ZONING ORDINANCE OF  
THE CITY OF BETHLEHEM AT PART 13 OF THE CODIFIED  
ORDINANCES OF THE CITY OF BETHLEHEM – DEFINITIONS

Voting AYE: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. Bill No. 18-2022 passed 7-0 on First Reading.

B. *Bill No. 19-2022 – Amend Zoning Ordinance – Part 13 - Definitions*

The Clerk read Bill No. 19-2022 – Amend Zoning Ordinance – Part 13 – Industrial Redevelopment and Industrial Redevelopment-Residential Zoning Districts, 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 ZONING ORDINANCE OF  
THE CITY OF BETHLEHEM AT PART 13 OF THE CODIFIED  
ORDINANCES OF THE CITY OF BETHLEHEM – INDUSTRIAL  
REDEVELOPMENT AND INDUSTRIAL REDEVELOPMENT-  
RESIDENTIAL ZONING DISTRICTS

Voting AYE: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. Bill No. 19-2022 passed 7-0 on First Reading.



C. *Bill No. 20-2022 – Amend Zoning Ordinance – Part 13 – IN-O – Industrial Overlay District*

The Clerk read Bill No. 20-2022 –Amend Zoning Ordinance – Part 13 – IN-O – Industrial Overlay District, 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 ZONING ORDINANCE OF THE CITY OF BETHLEHEM AT PART 13 OF THE CODIFIED ORDINANCES OF THE CITY OF BETHLEHEM – IN-O INDUSTRIAL OVERLAY DISTRICT

Voting AYE: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. Bill No. 20-2022 passed 7-0 on First Reading.

D. *Bill No. 21-2022 – Amend 2022 Capital Budget for Non-Utilities*

The Clerk read Bill No. 21-2022 – Amend 2022 Capital Budget for Non-Utilities, 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 2022 CAPITAL BUDGET FOR NON-UTILITIES

Voting AYE: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. Bill No. 21-2022 passed 7-0 on First Reading.

10. RESOLUTIONS

A. *Approve Resolution – Designating Southside LERTA District II*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-153 that authorized the properties identified in Exhibit “A” attached hereto shall collectively constitute the “Southside LERTA District II” for purposes of the above-referenced Ordinance, all of which properties shall be entitled to the benefits, privileges and duties set forth in such Ordinance or as such Ordinance as may be subsequently amended.

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

B. *Approve Liquor License Transfer – Moyer Entertainment & Hospitality Company*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-154 that Moyer Entertainment & Hospitality Company has requested the approval of the City Council of the City of Bethlehem, Northampton County, for the proposed transfer of Pennsylvania restaurant liquor license no. R-13209 (currently held by Green Pond Golf Course, Inc.) by Moyer Entertainment & Hospitality Company to retail restaurant facilities within the City of Bethlehem to be located at 24

West Broad Street, Bethlehem, Pennsylvania, with the understanding that said transfer must be approved at a later date by the Pennsylvania Liquor Control Board; and

BE IT FURTHER RESOLVED, that the City Council of the City of Bethlehem has held a properly advertised public hearing pursuant to the notice provisions subsection (b.3) of Section 461 of the Liquor Code to receive comments on the proposed liquor license transfer; and

BE IT FURTHER RESOLVED, that the City Council approves, by adoption of this Resolution, the proposed inter-municipal transfer of restaurant liquor license no. R-13209 into the City of Bethlehem by Moyer Entertainment & Hospitality Company; and

BE IT FURTHER RESOLVED, that transfers, designations and assignments of licenses hereunder are subject to approval by the Pennsylvania Liquor Control Board.

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

C. *Approve Contract – Mahan Rykiel Associates, Inc. – Greenway New and 3<sup>rd</sup>*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-155 that authorized to Execute and agreement with Mahan Rykiel Associates, Inc. for designing the Greenway in the area of New and 3<sup>rd</sup> Streets.

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

D. *Approve Contract – Herbert, Rowland & Grubic, Inc. – Swale adjacent to 257 Craig Avenue*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-156 that authorized to execute an agreement with Herbert, Rowland & Grubic, Inc. to improve the swale adjacent to 257 Craig Avenue

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

E. *Approve Resolution – Highway Safety Project Police Traffic Services Grant*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-157 that authorizes the Mayor and Controller to sign all necessary grant documents for Highway Safety Project Police Traffic Safety Project Grant No. CTSP-2023-Bethlehem City-00028.

BE IT FURTHER RESOLVED that the Clerk is directed to execute a certificate attesting to the adoption of a Resolution and to furnish a copy of the Resolution to the Pennsylvania Department of Transportation.

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

*F. Approve Resolution – Highway Safety Project Health Bureau Services Grant*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-158 that authorizes the Mayor and Controller to sign all necessary grant documents for Highway Safety Project Community Traffic Safety Project Grant No. CTSP-2023-Bethlehem City-00008.

BE IT FURTHER RESOLVED that the Clerk is directed to execute a certificate attesting to the adoption of a Resolution and to furnish a copy of the Resolution to the Pennsylvania Department of Transportation.

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

*G. Approve Transfer of Funds – Non-Utility Capital Budget – Police Body Cameras*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-159 that authorized that \$120,000 in the Non-Utility Capital Fund be transferred from Account 69999-66025 City Hall Garage Floor to account 69999-66103 Police Body Cameras for the purchase and support/maintenance subscription of 120 police body cameras.

Ms. Kwiatek questioned the amount of \$120,000 being mentioned versus the Resolution in Council's paperwork showing an amount of \$200,000. The Clerk said that an error had been made and that the figure should be \$200,000, an amount confirmed by the Business Administrator. She added gratitude that money has been available for this expense and others through the savings realized from the City Hall garage floor resurfacing project.

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

*H. Use Permit Agreement – Grace Church Bethlehem – Feed Bethlehem Event*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-160 that authorized to execute a Use Permit Agreement with Grace Church Bethlehem for the Feed Bethlehem Event.

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

*I. Use Permit Agreement – Seven Sirens Brewing – Bethlehem Beer, Wine and Cider Fest*

Mr. Colón and Ms. Kwiatek sponsored Resolution No. 2022-161 that authorized to execute a Use Permit Agreement with Seven Sirens Brewery for the Beer, Wine & Cider Festival.

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

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

Ms. Crampsie Smith made a motion, seconded by Dr. Van Wirt, to consider Resolutions 10 J through 10 N as a group.

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

*J. Certificate of Appropriateness – 402 High Street*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-162 that granted a Certificate of Appropriateness to replace the existing asphalt roof shingles with GAF Slateline Shingles in the Antique Slate color at 402 High Street.

*K. Certificate of Appropriateness – 404 High Street*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-163 that granted a Certificate of Appropriateness to replace the existing asphalt roof shingles with GAF Slateline shingles in the Antique Slate color at 404 High Street.

*L. Certificate of Appropriateness – 54 East Wall Street*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-164 that granted a Certificate of Appropriateness to replace the existing asphalt roof shingles on the house and carport with GAF Slateline Shingles in the Antique Slate color at 54 East Wall Street.

*M. Certificate of Appropriateness – 125 East Third Street*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-165 that granted a Certificate of Appropriateness to renovate the lower façade at 125 East Third Street.

*N. Certificate of Appropriateness – 210-212 East Third Street*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-166 that granted a Certificate of Appropriateness renovate the existing front façade and a portion of the side façade at 210-212 East Third Street.

Voting AYE on Resolutions 10 J through 10 N: Ms. Kwiatek, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, Dr. Enix, and Mr. Colón, 7. The Resolutions passed.

*O. Certificate of Appropriateness – 25 West Third Street – (Denial from the HCC)*

Ms. Crampsie Smith and Mr. Colón sponsored Resolution No. 2022-167 that **granted** a Certificate of Appropriateness to demolish all existing structures at current site and construct a new cultural center at the site of the current Banana Factory Arts Center at 25 West Third Street.

President Colón offered a procedural note prior to discussion. Because the HCC recommended denial of the COA, a vote of aye would favor the denial and a vote of nay would support granting a COA. He added that he will not support the denial. He was on Council in February of 2019 when the original COA was received for this project. This plan was to raze four

of the six buildings instead of all six. He does not view this as a bait-and-switch of the previous plans. From what was discussed earlier, the market conditions are just different. There is no denial that construction costs have risen sharply. Within the HCC article, there is a line about economic hardship, and that was something that has been presented to Council. In my opinion, it has met that threshold. This is not a for-profit enterprise, this is not a developer, this is not someone trying to maximize financial profits and gains. In my mind, this is simply a matter that something was approved a few years ago, the circumstances have changed, the reality of the financial need to implement what was approved has changed, and with that, I would support that. President Colón said he appreciates the efforts of the HCC Board. Overturning decisions is within Council's purview, although it does not do so often.

Ms. Wilhelm added her respect for the opinions and expertise of the HCC and said that her no vote is in no way a rebuke of their work. She added that the HCC recommended denial passed narrowly by one vote. This is not a cut-and-dried issue even by those who look through the lens of historic preservation. Council is charged with looking at this issue from a broad perspective. She said that she has been to the Banana Factory many times. It has served us well, but it is not meeting its potential. Although some have mentioned relocating the arts center, she believes its placement at the western gateway of the City is an invitation. She added that this is not a vote against historic preservation across the board, but is instead an independent vote on this project weighing all circumstances.

Ms. Kwitatek said she attended the HCC meeting and spoke at length with HCC member Gary Lader and ArtsQuest CEO Kassie Hilgert. She also said she has been to the Banana Factory many times and appreciated her daughter's experience there. She toured the site and found the building to be creaking, ceiling parts falling, and inadequate studios. The new design would offer 36 studios instead of the current 20. She adds a lot of weight to the children of the community who will be served and the amount of good that can be done. She also noted the vibrancy that will be added to the gateway location. She also believes that if ArtsQuest were to be forced to save the two buildings that would have to remain, the community would lose something much more substantial than what those buildings provide in terms of historical value. We have to accept that we are making a trade-off here. The fact that four buildings had already been approved for demolition also made a difference to her. She believes this project has met the threshold of economic hardship in terms of beneficial use. ArtsQuest is a non-profit organization and is not a developer. It serves the public good in so many ways in our community. Sometimes people think that they have sharp elbows and maybe they do. There is a love/hate relationship with Musikfest and all of that. But, the City would not be what it is without ArtsQuest.

Dr. Enix said there is no question that this is the right project at the right time. However, as a person who has spent of her life on the South Side and owning two properties there and having taught at Broughal Middle School and having 44 years in education, she knows the value of the arts in education. She knows the value of ArtsQuest. However, everything that we do will have an impact on housing and housing costs. She notes the current need for affordable housing.

But, this project is not just about one organization. It is about the South Side residents also. It also is about the cost of housing and transportation. Housing and transportation are interrelated. She found a proposal from the 1980s or '90s to build an inter-modal facility in this very block. As she speaks to residents today, one of their needs is transportation to get to better jobs. She believes that land on the east side near the casino would offer an even larger site for the

cultural center. She has no qualms with the building design of the proposed cultural center. She added that the buildings at the existing Banana Factory site are old, not really historic. What we need there is what the people want, what the South Siders need. Some of our marginalized people cannot take jobs because they do not have the transportation. She knows that this is “totally off-scale” here, but we need to talk about true affordability and combining housing with transportation there, and that is the place where we should do it. Let us look at the location and think about the residents’ needs on the South Side. She added that fewer automobiles would lead to decreased auto emissions and the related health problems. Moving the proposed location of the cultural center would still allow for all of the arts activities and festivals and allow for the opportunities that a transportation center would bring.

Ms. Crampsie Smith said she supports all of the hard work of the HCC and believes that it is rare to go against its recommendations. She said she believes in historic preservation and hates to see properties demolished, but she believes this is one of those times when it should be. She also believes that the nonprofit ArtsQuest is a worthy organization that benefits all of the community. As a school counselor, she has seen the benefits to the programs and their effects on youths. She also recognizes that the HCC previously approved demolition of four of the buildings on the property, and she believes that the proposed new building design will complement the South Side.

Ms. Leon considers how many historic structures have been demolished on the South Side and weighs the community benefit. She also greatly values the HCC recommendation. She said she strongly supports what ArtsQuest is doing, but she must side with the HCC on this one.

Dr. Van Wirt added her support of the HCC. She complimented sharp minds and passionate arguments in both the statement of hardship and the HCC’s recommended denial. She also mentioned the HCC’s tasked narrow focus of asking whether a project will harm the Historic District, but Council is tasked with taking a wider view and considering the nuances of each project and who it will serve. She agreed with the HCC that there should be a 12-foot setback of the Fifth Floor. She also wants to see a City where there is room for “the most shining, competent professionals” to give their opinions without fear of not being reappointed to boards and commissions. She cited some members under the Donchez Administration who allegedly were not reappointed for their views. She was concerned that the same has most recently occurred with Mr. Lader. She was hopeful that we can have these talented people serving on boards and commissions who are free to make their own decisions without fear of not being reappointed.

President Colón added that there are more steps to this project after tonight. Regardless of this vote, ArtsQuest must still go back to the HCC for approval of the design.

Voting AYE: Leon and Dr. Enix, 2. NAY: Ms. Kwiatek, Dr. Van Wirt, Ms. Wilhelm, Ms. Crampsie Smith, and Mr. Colón, 5. Denial of the Certificate of Appropriateness was defeated 2-5, meaning that the Certificate of Appropriateness was granted.

## 11. NEW BUSINESS

Ms. Crampsie Smith mentioned that she has had a lot of complaints about the condition of the Martin Tower site, especially weeds. She asked the Administration if something such as issuing fines is intended.

Mayor Reynolds said they have been in contact with the owners. He said they have recently signed leases with Lehigh Valley Health Network for two buildings there, so some progress is expected. The City has contacted the owners to cut the grass and do some other upkeep. We agree that it is an embarrassment the way it looks.

The Mayor also corrected some earlier statements about previous Councils. There has been a lot of conversation about how high some buildings are. He said that the building at 3<sup>rd</sup> and New Streets that received Council approval in January of 2016 followed unanimous HCC recommendation in December 2015. He also believes that tonight's vote against an HCC recommendation is only the second such time in his memory.

12. ADJOURNMENT

The meeting was adjourned at 11:13 PM.

ATTEST:

Tad J. Miller  
City Clerk