

BETHLEHEM CITY COUNCIL MEETING  
10 East Church Street - Town Hall  
Bethlehem, Pennsylvania  
Tuesday, October 3, 2023 – 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, Rachel Leon, Paige Van Wirt, Kiera L. Wilhelm, and Michael G. Colón, 6.; ABSENT: Hillary G. Kwiatek, 1.

President Colón announced that Councilwoman Kwiatek would not be present tonight because she is traveling outside of the area.

2. APPROVAL OF MINUTES

September 19, 2023

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

*Police Plea for Help*

Robert Nicholson, President of the City's Fraternal Order of Police, said he was accompanied tonight by FOP Vice President Martin Soltan. Officer Nicholson made it clear that they love this City but they see a trend that makes future sustainability uncertain. He agreed with Mayor Reynolds' September 19 Council meeting statement that City police force numbers are not shrinking at 154 officers. However, the Department is actually operating below that number because of unfilled positions. Officers serve as protectors when help is needed and the consequences for criminal action on those occasions as well. But police are more than that in Bethlehem. They must sometimes serve as crossing guards for school children, nurses for those with minor injuries and performers of life-saving skills until Bethlehem EMS arrives. Police also serve roles as therapists, marriage counselors, mediators, and sometimes just someone to talk to on a bad day. All of these roles are not handled by many other police departments. He noted that officers who recently were hired after serving in New York City and Philadelphia soon resigned from the Bethlehem force because of the workload and excessive responsibilities. Officer Nicholson said this level of service will become increasingly more difficult to accomplish at the current staffing level. The decline in the total number of officers has taken away from some duties. Standards must be maintained for patrol. This means that other needs are not being met. The added workload means that fewer officers are signing up for added duty requested by ArtsQuest and Wind Creek Casino. Fewer officers also are willing to attend community events, such as working Musikfest. He added that this also means that officers have less time "to do the little things that separate our officers from other departments." The problem is nationwide. He said when he applied for the force in 2016, there were 264 applicants competing for just a few positions. In 2022, there were 61 applying for "double digits" in openings. Of those, 30 were qualified. About 80 applicants took the test this year, and the list was whittled to 10. Officer

Nichelson said the Department is beginning to feel the effects of this decline. He is concerned that these effects will soon be felt by the public. The Mayor's Office, the Department and the FOP are looking at ways to combat this situation. He believes this should include City Council input. He urged that this effort find a way to attract candidates for openings and a way to keep the experienced existing officer from leaving for other departments or retiring as soon as they are eligible. He suggested talking about the possibilities now to be proactive.

#### *Neighborhood Concerns*

Resident Angela Mitchell again pleaded for assistance in returning her Cherokee Street neighborhood to a peaceful, pleasant place. She has complained in recent months about speeding cars, noise, garbage in the streets, and some unkempt rental properties. She has not seen much progress. She asked for Council's suggestions to return this to being a great block to live.

President Colón invited Ms. Mitchell to discuss potential solutions with department heads after the meeting. She noted the possibility of adding speed humps to slow traffic. President Colón said she could take this matter up with Public Works Director Michael Alkhal or Police Chief Michelle Kott.

#### *Will Bethlehem Appeal?*

Resident Mary Jo Makoul stated that the written report concerning the Hanover Apartments zoning hearing was released on September 29. Those interested in appealing the decision to county court have 30 days from that date. She noted today is Day 5. Since it takes time to file an appeal, she asked for a "yes or no answer" if the City Solicitor has received the decision and begun reading it. Ms. Makoul said she has taken two steps concerning this unwanted multi-story apartment building. She has begun paperwork to move out of the City and obtained an estimate to plant large trees on her property for screening.

City Solicitor Spirk said he has read the zoning decision. A decision has not been made as to whether the City will appeal the ruling, but time remains.

#### *Parking Concerns*

Resident Emily Frye followed up on a concern that she emailed Council about several weeks ago. This involves the prohibition of parking within 20 feet of an intersection. She asked whether this applies to all intersections in Bethlehem. She noted that Dr. Enix viewed the situation in their neighborhood, but they have not yet received an answer. Ms. Frye contended that if this restriction applies to all streets, it would disqualify significant potential parking space. Parking already is difficult to find.

President Colón said that she could discuss this matter after the meeting or he could email her. She requested an email exchange.

#### *Additional Parking Concerns*

Resident David Frye said that he and his wife, Emily Frye, share the concern she just mentioned. He added a concern about the Bethlehem Parking Authority and its rules concerning

notification prior to enforcement of no-parking restrictions. Their street had to be closed to parking for tree removal. Two days prior to the work, no-parking signs were posted in their block. However, there were no dates listed on the signs. When neighbors contacted the BPA, they were given multiple answers with details and instructions – several of which were not accurate, he said. He said that a visit to BPA offices was not helpful, nor was use of the Authority's email system. He did receive an emailed response from the supervisor, but he said that is the end of the process. There is not a good appeal process in place or good communication. Eventually, he learned that the no-parking edict begins as soon as the signs are posted. However, signs are put up without the notification of residents. There is no notice. If a person does not notice that signs have been posted, they may be ticketed or towed if they do not go outside and notice the signs. Could residents be notified by the Authority or City?

#### *Representation Questioned*

Resident Stephen Antalics read from a July 2, 2002 news article stating that rental housing density had become an issue in Bethlehem. A resident raising this issue found an ally on Council who discussed the matter at a meeting. The Mayor at that time said the matter would be studied. Mr. Antalics said it was interesting that a Council Member was responsive to a public concern as was the Mayor. He now discussed the September 19, 2023 Council meeting and said that a frustrated private citizen addressed Council about rental housing density but received no response to his comments. Meanwhile, some were observed "reading, writing or looking at computers thereby ignoring the citizen's statements." He said this is not only rude but a classic example of poor representation in government. He has asked what causes the difference in these two scenarios. He asked all to keep in mind the welfare of the City.

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

#### *Demolition Cautions*

Resident James Follweiler noted that the Historical Architectural Review Board's 4-2 approval for granting a Certificate of Appropriateness for demolition of the Walnut Street Parking Garage now lands Council's consideration on tonight's agenda. Mr. Follweiler said that during last week's meeting, Executive Director Steve Fernstrom said that the primary purpose of this project was to divest half of the property for an apartment building and commercial spaces and not for the "true downtown parking requirements." Mr. Follweiler said he thought the BPA's mission was about parking. He said that justification data presented during that meeting was for March, April, and September figures, ignoring July, August, November, and December – key months of the year in Downtown Bethlehem. Also, the parking mitigation plan uses April data, again, a low-usage month for the deck. He also asked why this was a draft version when it has been stated in the past that there was a completed plan. During the September HARB meeting, the board was told by the Administration that it had to vote on the COA because the contract for demolition had already been issued. Why does a demolition plan come before a replacement plan? Should not both be presented at the same time? He asked what developer would tear down a property not knowing what will go in its place. He alleged that this is all done by design so that Council can only vote on demolition. Once demolition is accomplished, HARB and Council will be forced to approve something because the clock is ticking. It will back officials into accepting anything just to restore parking to the downtown. With this in mind, Mr. Follweiler said the

Mayor has said the parking portion may have to be built taller to accommodate more vehicles. Drawings that Mr. Follweiler has seen shows the new facility to be 20-25 feet taller than the existing garage. This already appears to violate the historical requirements within the HARB zone. He said this apparent deception is no way to conduct business. There also has not been true dialog. The real focus, he said, appears to be on providing a new apartment complex. He asked which is more important: a proposed apartment complex of our about "our overall long-term vibrant downtown and history"?

*Slow the Process*

Resident Marsha Fritz followed up on Mr. Follweiler's comments and agreed that this is a ruling on an extremely important public project. She believes that the garage needs replacement, but there are other issues here. HARB was persuaded to approve the demolition COA without knowing what its replacement would look like or if it would meet historical guidelines. "This is highly unusual," said the former HARB Chairwoman. She said HARB has a long-standing tradition of following policy on how decisions are made. One that applies is requiring adequate documentation on what is to follow if demolition is requested. This was not done. She asked whether Council Members want to be the ones to upend the long-standing norms of HARB. She recommended tabling this matter until adequate information is received. She said that poor planning by BPA should not be cause for a rushed decision.

*Wait for Public Input*

Dan Nigito, a resident and nearby business owner, said common sense seems to have been abandoned. He asked how could anyone approve a demolition of one of the largest parking garages in the City before plans are approved to rebuild it. There has been no public presentation of plans or public discussion. He also wondered where everyone will park during the interim. Lost day-to-day needs will be bad enough, but he asked what will happen during Musikfest and the Christmas season. Mr. Nigito also questioned the height, noting that the existing garage is about 50 feet tall. The proposal might add 25 feet. "It can't possibly be approved by zoning," he said. He implored Council to slow this process and allow a frank and open debate. He believes this project should proceed, but only after due diligence is done and there has been public debate. He suggested tabling the COA.

*Something Missing in the Process?*

Resident Shelley Nigito agreed with the points made by her husband. She has always "felt good about the history, heritage, and the brotherhood that exist in Bethlehem." She believes something is missing in this process. She does not understand that it is easier to demolish a building in the historic district than if a homeowner wants to change the color of their front door. She does not believe there should be a rush. If the structure is dangerous, it should be closed and put the cars somewhere else now. Ms. Nigito said parking is very important to a busy downtown. She identified herself as the director of the State Theatre in Easton and said the No. 1 question that she is asked by the public is where to park. There is not enough parking. People who come to a community that come to a community like this have money to spend shopping or at restaurants and want a place to park. She does not understand demolishing a parking garage and building a smaller one.

*Improper Planning*

Resident Tom Ginther implored Council to table the vote. He worried that the City will have a hole in the ground, there will be delays in reconstruction, and the project may drag on for years because of improper planning.

*See the Whole Picture*

Resident Rocco Damato is concerned about the impact on the Historic District. He raised concerns at the HARB meeting about vibrations and dust during the demolition. There is concern about the integrity of the nearby properties. He cited three homes that have been severely damaged as a result of undermining by broken water mains. Mr. Damato is additionally concerned by the 20-foot or more taller walls that have been talked about. These will tower over the Historic District. He, too, is concerned that no details about the garage replacement will be provided until the demolition is approved tonight. He served on review boards in New York City and said he does not think he would approve a plan under these conditions. He urged Council to wait to vote until it sees the replacement plan.

*Don't Become the Bad Guy*

Resident Bruce Haines said that the COA was inappropriately approved by HARB and that Council should refer it back to that Board. If not that, he agreed with Ms. Fritz that Council should table this matter until it receives plans for the intended replacement. It should be a warning flag that the discussed replacement would exceed the height allowed in the Historic District. Why permit demolition when it appears that the intended replacement will not meet the required height limit? BPA is trying to control what Council is doing. If Council approves demolition and an unacceptable plan comes to HARB to rebuild, Council will be the "bad guy" because there will be delays as the approval process drags on or there will be pressure to approve something that is not allowed by right. Mr. Haines suggested tabling this matter, sending it back to HARB for reconsideration, or – better yet – denying the COA.

*Maintain Downtown Charm*

Business owner Joanne Smida asked why an apartment building is part of this proposal when parking spaces are what is needed. She said data was not considered from the Christmas season. She also wondered the need for added height. She said people come to Bethlehem because of its charm. Building higher and not addressing parking problems goes against this. She predicted that this project will impact two Christmas seasons and suggested having a trolley system in place to accommodate visitors.

*Wait for Answers*

Resident Dana Grubb complained that the Administration is attempting to "muzzle the public" on the Walnut Street Garage issue and the COA for demolition. He was among those who submitted comments prior to HARB's last meeting using the City-provided link and provided more than 24 hours before the meeting as stipulated. He has since learned that all submitted comments were not forwarded to HARB prior to the meeting. He wondered who decided that these comments should be withheld and why was it done? He also asked why the BPA and the

Administration have not been open about the project. He urged Council to table the COA action until the resident comments are provided to HARB, proper procedures are followed, and answers are given to residents, HARB, and Council.

*Wait Until After Details Are Released*

Resident William Scheirer said the parking garage topic has produced many emails within the community. Word has it that the proposed replacement garage would be taller with a smaller footprint and that an apartment building would fill the remaining lot space. He observed that taller garages are less efficient because the construction cost is higher per parking space. This is because each story above the first requires additional up and down ramps. It appears that a taller garage is being planned to accommodate the apartment building. Not only will this be less costly and efficient, but this tall parking garage will be sticking up in the Historic District. He called a vote to demolish premature. He agreed with an earlier statement that – intended or not – approving demolition now and trying to get plan approval for new construction later will give the BPA an advantage of pressuring boards to approve those plans to be able to again offer much-needed parking. Mr. Scheirer urged delay in some form – referring the matter back to HARB or tabling tonight's vote – at least until after the scheduled informational meeting scheduled by BPA on October 11 at the Hyatt.

*Follow the Necessary Steps*

Resident Lucy Lennon said that one of the first questions that she gets asked as a Realtor is where to park as it relates to a property. She agreed the garage needs replacement. But to say that they will demolish the existing the garage and without plans now to show its replacement and to say that they will have a replacement in 20 months, she does not see this as possible. She said it took 9 months to obtain zoning approval for a project she is working with to accommodate two bathrooms and some walls being removed. She did not see demolition, approvals, and reconstruction of a garage and apartments being completed in 20 months. Ms. Lennon added that the business owners should have a voice in all of this. There should be an open discussion with the BPA. She added that the BPA and the Administration might have the greatest intentions with this project, but “when you shove things real quick into people, it starts to not smell right. It's not saying that you are doing anything wrong, but the presentation isn't there. How can you present if you don't have a plan to present”? She said she would not sell a property, tell people that you are going to tear it down and then tell them to go to zoning and ask them what you can do. That's not the way to do it. Take time before doing this. At least table it.

*Learn from History*

Resident Stephen Antalics said the common denominator in all of this is control. In this case, we have the public and the Administration. Mr. Antalics renewed his assertion that those serving on the City's authorities, boards, and commissions should be the best available. However, there will be problems when those appointed simply “toe the Administration's line.” Mr. Antalics referred to the plan to build a consolidated Town Hall in Bethlehem in 1954. City residents voted to build a facility at what is today the Sayre hotel. This was not favored by the Mayor at that time. To get around this, the Mayor appointed an authority whose mission was to build a City Hall complex. Mr. Antalics likened these actions to what is going on with the parking garage. He implored Council to listen to the people who have spoken tonight and to table this action.

*Whole Plan Needs to be Shown*

Resident Martin Romeril stated that Council can vote however it wishes. It does not have certain limitations that advisory boards do. He encouraged Council to consult its Solicitor about the rights and privileges before voting on any issue. He complained that HARB members were bullied into voting for the COA. Mr. Romeril also complained that resident comments, provided in accordance with City rules, were not read into the record at the HARB meeting. He said the new project is based on greed, not need. He added that parking figures offered for April are dishonest and do not reflect an average of north side parking needs over 12 months and especially not during peak periods including the Christmas season. He also suggested that next week's BPA meeting offering more information about the garage project should come before the COA demolition approval. The whole plan should be known before voting on demolition. Mr. Romeril also said that a lot of damage to the parking garage is because repairs were not done over the years. Only \$1.2 million was spent out of an approved \$5 million repair plan prepared in 2014. He asked where the rest of the money went.

5. OLD BUSINESS

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

6. COMMUNICATIONS

- A. *Flaherty & O'Hara – Request for Intermunicipal Restaurant Liquor License Transfer – Sheetz, Inc.*

The Clerk read an August 7, 2023 communication from Mark Kozar, Esquire was received by the Clerk's Office on September 19. Attorney Kozar of Flaherty & Ohara requested an intermunicipal transfer of a restaurant liquor license on behalf of his client, Sheetz, Inc. Sheetz seeks approval to transfer Pennsylvania Retail Restaurant Liquor License No. R-11795. The applicant wishes to transfer ownership from Aiello & Grigoli, Inc. at 821 Main Street, Northampton Borough, Northampton County, to Sheetz, Inc. for a Sheetz store intended to be built at 4<sup>th</sup> & Emery Streets in Bethlehem, Northampton County.

*Scheduling Public Hearing*

President Colón stated he will accept a motion and a second to schedule a Public Hearing on Wednesday, November 8, 2023 to consider the intermunicipal liquor license transfer.

Dr. Van Wirt made a motion, seconded by Ms. Crampsie Smith, to schedule a Public Hearing on Wednesday, November 8, 2023 at 7:00 PM in Town Hall.

Voting AYE: Ms. Crampsie Smith, Dr. Enix, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Mr. Colón, 6. Motion passed.

- B. *Chief of Police – Local Share account Grant – ICOR Mini-Caliber Robot Resolution*

The Clerk read a September 22, 2023 memorandum with an attached Resolution from Police Chief Michelle Kott seeking approval to apply for a \$100,412 2023 Local Share Account Northampton and Lehigh Counties grant. This money would be used to purchase an ICOR mini-caliber robot with accessories to replace the Department's existing robot, which is 12 years old and at its end of life. The robot is used by trained personnel in situations such as communicating with a barricaded subject or safely searching areas for suspects.

President Colón stated Resolution 10 B is on the agenda.

C. *Business Administrator – 2023 State Aid Allocations*

The Clerk read a September 28, 2023 memorandum from Business Administrator Eric Evans advising that a direct deposit for Pension State Aid in the amount of \$4,685,622.16 has been allocated to Pension Bond Payments and Police, Fire and PMRS Minimum Municipal Obligations.

President Colón stated Resolution 10 C is on the agenda.

D. *Director of Public Works – Authorization for Contract or Amendment – ACM Associates – 2023 56 City Hall Asbestos Tiles*

The Clerk read a September 26, 2023 memorandum with an attached Resolution from Public Works Director Michael Alkhal recommending an agreement with ACM Associates, Inc. of Allentown. ACM Associates will perform the final phase of City Hall floor replacement of vinyl asbestos tiles on the fourth floor of the B Building and the 2<sup>nd</sup> and 3<sup>rd</sup> floors of the A Building and provide air testing post abatement. The cost of the contract is \$89,750. The work is to be completed by December 31, 2024. There are no renewals. Based on the quality of similar work performed for the City by this firm in the past, ACM Associates was found to be responsive and qualified.

President Colón stated Resolution 10 D is on the agenda.

E. *Director of Water and Sewer Resources – memo 2024 Sewer Rate Increase – Amend Ordinance Article 927*

The Clerk read a September 27, 2023 memorandum with an attached Ordinance from Edward Boscola, Director of Water and Sewer Resources, recommending an 8 percent increase in sewer charges for all customer classes for the City of Bethlehem effective January 1, 2024. Mr. Boscola notes that the sewer fund continues to experience relatively flat revenue growth over time; however, expenditures – including inflationary increases – continue to rise each year. The last rate increase imposed by the City was also 8 percent in 2020.

President Colón stated that this matter will be referred to the City's Finance Committee for a meeting to be scheduled.

F. *City Solicitor – Use Permit Agreement – Greater Lehigh Valley Chamber of Commerce – 2023 Christmas City Village*

The Clerk read a September 28, 2023 memorandum from Solicitor John F. Spirk, Jr. with an attached Resolution and associated Use Permit Agreement. The Permittee is the Greater Lehigh



Valley Chamber of Commerce, by and through its Downtown Bethlehem Association, and the Agreement is for the 2023 Christmas City Village. The Agreement is from October 30, 2023 through January 9, 2024. The agreement covers the Main Street sidewalk right-of-way locations approved by the Department of Public Works; and City property along Main Street adjacent to the Moravian Blacksmith Shop as shown on an attached exhibit.

President Colón stated Resolution 10 E is on the agenda.

G. *City Solicitor – Use Permit Agreement – ArtsQuest – 2023 Ice Rink at SteelStacks*

The Clerk read a September 28, 2023 memorandum from Solicitor John F. Spirk, Jr. with an attached Resolution and associated Use Permit Agreement. The Permittee is ArtsQuest, and the Agreement is for the 2023 Ice Rink at SteelStacks. The Agreement is from November 22, 2023 through January 15, 2024, Fridays, Saturdays, and Sundays only. The agreement covers First Street from Founders Way to the eastern terminus.

President Colón stated Resolution 10 F is on the agenda.

H. *City Solicitor – Use Permit Agreement – ArtsQuest – 2023 Peepsfest*

The Clerk read a September 28, 2023 memorandum from Solicitor John F. Spirk, Jr. with an attached Resolution and associated Use Permit Agreement. The Permittee is ArtsQuest, and the Agreement is for the 2023 Peepsfest. The Agreement is for December 30th and 31st. The agreement covers First Street from Polk Street to the eastern terminus and Founders Way between 1<sup>st</sup> and 2<sup>nd</sup> Streets. It also covers Sand Island East for the fireworks only.

President Colón stated Resolution 10 G is on the agenda.

I. *Director of Community and Economic Development – CDBG/HOME Annual Action Plan – Habitat Substantial Amendment*

The Clerk read a September 28, 2023 memorandum and proposed Resolution from Laura Collins, Director of Community and Economic Development. DCED proposes to amend the City's Program Year 2019 Action Plant to grant Habitat for Humanity an additional \$304,593 in HOME funds for construction of two attached single-family homes on the South Side. This additional money will be funded with underutilized and reallocated HOME funds and would not negatively affect other projects or programs.

President Colón stated Resolution 10 H is on the agenda.

7. REPORTS

A. *President of Council*

B. *Mayor*

*Festival UnBound/Fairview Park Build/Opening Doors Part 2*

Mayor Reynolds remarked that Touchstone Theatre's Festival UnBound was magical and represents the best of what our community has to offer. He reminded that tomorrow will be the Fairview Park build event. He thanked Mr. Alkhal for the Public Works preparation. This is being done in conjunction with Bethlehem hosting the Pennsylvania Municipal League convention. This will be PML's largest convention next to the one hosted in Philadelphia. There will be a few panel discussions that will highlight Bethlehem's efforts including the revitalization of the City and another on affordable housing. The Mayor also reminded that Opening Doors Part 2 will outline affordable housing strategies at 5:30 PM on October 10.

C. *Community Development Committee*

Dr. Van Wirt reported that the Community Development Committee met on September 26 and heard Part 3 of the Administration's Comprehensive Housing Strategy update.

8. ORDINANCES FOR FINAL PASSAGE

8A. *Bill No. 35-2023 – General Fund – Health Budget Amendments*

The Clerk read Bill No. 35-2023 – General Fund – Health Budget Amendments, sponsored by Dr. Enix and Ms. Leon and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,  
COUNTIES OF LEHIGH AND NORTHAMPTON,  
COMMONWEALTH OF PENNSYLVANIA, AMENDING  
THE 2023 GENERAL FUND BUDGET.

Voting AYE: Ms. Crampsie Smith, Dr. Enix, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Mr. Colón, 6. Bill No. 35-2023, now known as Ordinance No. 2023-34, was passed on Final Reading.

9B. *Bill No. 36-2023 – General Fund – Walmart Grant*

The Clerk read Bill No. 36-2023 General Fund – Walmart Grant, sponsored by Dr. Enix and Ms. Leon and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,  
COUNTIES OF LEHIGH AND NORTHAMPTON,  
COMMONWEALTH OF PENNSYLVANIA, AMENDING  
THE 2023 GENERAL FUND BUDGET.

Voting AYE: Ms. Crampsie Smith, Dr. Enix, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Mr. Colón, 6. Bill No. 36-2023, now known as Ordinance No. 2023-35, was passed on Final Reading.

9. NEW ORDINANCES

9A. *Bill No. 37-2023 – Article 347 Amendments – Municipal Claims for Delinquent Accounts*

The Clerk read Bill No. 37-2023 Article 347 Amendments – Municipal Claims for Delinquent Accounts, sponsored by Dr. Enix and Ms. Crampsie Smith and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF  
LEHIGH AND NORTHAMPTON, COMMONWEALTH OF  
PENNSYLVANIA, AMENDING ARTICLE 347 OF THE CODIFIED  
ORDINANCES OF THE CITY OF BETHLEHEM, TITLED  
“MUNICIPAL CLAIMS FOR DELINQUENT ACCOUNTS –  
SCHEDULE OF ATTORNEYS FEES TO BE ADDED”

Voting AYE: Ms. Crampsie Smith, Dr. Enix, Ms. Leon, Dr. Van Wirt, Ms. Wilhelm, and Mr. Colón, 6. Bill No. 37-2023 was passed on First Reading.

10. RESOLUTIONS

A. *Approve Resolution – Records Destruction – Fire Bureau*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-195 that authorized the disposal of public records in the office of the Fire Department, as set forth in Exhibit A.

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

B. *Approve Resolution – Chief of Police – Local Share Account Grant – ICOR Mini-Caliber Robot*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-196 that authorized to execute all documents and agreements for the City of Bethlehem to hereby request \$100,412 from the 2023 Local Share Account Northampton & Lehigh Counties grant for the purchase of an ICOR mini-caliber robot with accessories.

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

C. *Approve Resolution – Business Administrator – 2023 State Aid Allocation*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-197 that authorized to allocate \$4,685,622.16 in 2023 General Municipal Pension System State Aid to the line items specified in the Resolution.

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

D. *Approve Resolution – ACM Associates – 2023 56 City Hall Asbestos Tiles*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-198 that authorized to execute an Agreement with ACM Associates to remove, dispose of, and replace tiles for portions of City Hall.

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

*E. Approve Resolution – City Solicitor – Use Permit Agreement – Greater Lehigh Valley Chamber of Commerce – 2023 Christmas City Village*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-199 that authorized to execute a Use Permit Agreement with the Greater Lehigh Valley Chamber of Commerce, by and through its Downtown Bethlehem Association, for the 2023 Christmas City Village.

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

*F. Approve Resolution – City Solicitor – Use Permit Agreement – ArtsQuest – 2023 Ice Rink at SteelStacks*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-200 that authorized to execute a Use Permit Agreement with ArtsQuest for the 2023 Ice Rink at SteelStacks.

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

*G. Approve Resolution – Use Permit Agreement– ArtsQuest – 2023 Peepsfest*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-201 that authorized to execute a Use Permit Agreement with ArtsQuest for the 2023 Peepsfest.

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

*H. Approve Resolution – PY 2019 CDBG/HOME Annual Action Plan – Habitat Substantial Amendment*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-202 that authorized to amend its Program Year 2019 Community Development Block Grant and HOME Action Plan. This amendment would add \$304,593 in HOME funds for construction of two attached single-family homes in South Bethlehem by reallocating money from underutilized HOME funds.

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

*I. Certificate of Appropriateness – 301-327 Broadway*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-203 that granted a Certificate of Appropriateness for 301-327 Broadway to revise the designs of the West Fourth Street façade as well as the rooftop biergarten along Broadway and the west building façade that were previously submitted to HCC.

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

*J. Certificate of Appropriateness – 21-23 East Third Street*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-204 that granted a Certificate of Appropriateness for 21-23 East Third Street to replace the previously approved awnings with striped awnings with front flap valances and fabric sides as well as to install new signage to reflect a new commercial tenant.

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

*K. Certificate of Appropriateness – 13 West Third Street*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-205 that granted a Certificate of Appropriateness for 13 West Third Street to replace the existing shingle roofing with non-architectural GAF Slateline asphalt shingles and replace metal flashings, where needed.

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

*L. Certificate of Appropriateness – 33 West Walnut Street*

Dr. Enix and Ms. Crampsie Smith sponsored Resolution No. 2023-206 that granted a Certificate of Appropriateness for 33 West Walnut Street to demolish the Walnut Street Parking Garage.

President Colón asked Council Solicitor Brian Panella to frame the context of what the COA is. He noted that Council sees a lot of routine COAs, such as replacing windows and shingles in the historic districts. But he asked Solicitor Panella to state the scope of what Council will be voting on as the ordinance permits.

Solicitor Panella agreed but first offered the history of where the City's ordinance comes from. Creation of a historic district is authorized by the state Legislature. In pertinent part, the Ordinance authorizes "that any governing body in determining whether or not to certify the appropriateness of the erection, reconstruction, alteration, restoration, demolition or razing of the building in whole or in part shall consider the effect which the proposed change will have upon the general historic and architectural nature of the district. The governing body shall pass upon the appropriateness of exterior architectural features which can be seen from the public street or way only and shall consider the general design, arrangement, texture, material, and color of the building or structure and the relation of such factors to similar features of buildings and structures in the district. The governing body shall not consider any matters not pertinent to the

preservation of the historical aspect and nature of the district. Upon giving approval, the governing body shall issue a Certificate of Appropriateness.” He added that disapproval shall be in writing with reasons provided. The City established a historical district and HARB with Article 1713. This article incorporates much of the language adopted by the state ordinance. City Council is directed to read the written HARB decision and shall also consider just the factors quoted above. Solicitor Panella also emphasized that regardless of when the garage is demolished, whatever replaces it will also require additional COAs. Solicitor Panella addressed City Solicitor Spirk, noting that he previously counseled City Council. He asked if Solicitor Spirk would agree with how he explained things, especially the requirement that additional COAs would be required for replacement construction. Solicitor Spirk agreed.

President Colón next called upon Mr. Fernstrom to provide background. Mr. Fernstrom stated the Walnut Street Parking Garage has become deteriorated over the years. In mid- to late-2020 BPA received comprehensive reports from two independent structural engineers. Both experts concluded that the parking garage has reached its useful end of life. The report presented two options. One was to address life-safety issues and phase out the garage while the BPA worked on a replacement. The other was to invest \$25 million into a 50-year-old structure to extend its life. In April of 2021, the BPA board put a shelf life on the garage as the new structure was planned. In 2022, as a replacement plan was initiated, the BPA board shifted its repair approach to performing quarterly assessments and adopting a reactionary repair strategy on the recommendation of the engineers. All of these BPA board decisions were made at public hearings. Over the past 32 public BPA meetings, the garage was either an agenda item, discussed or voted on 18 times. The more than 20 subsequent assessments have revealed broken welds, concrete deterioration and other hazardous conditions that require significant investments. In September of 2023, the most recent public Board meeting, on the recommendation of the engineers, the Board agreed that it is financially irresponsible to keep the garage open beyond January of 2024. Mr. Fernstrom said the BPA has experience in running parking garages and successfully demolished and rebuilt one on Polk Street in about 13 months. Meanwhile, the South New Street Garage has become an award-winning success from the South Side Historic Conservation Commission which underscores the BPA’s commitment to working with historic districts and it wishes to do so with reconstruction of the Walnut Street Garage. Mr. Fernstrom said it is clear that the Walnut Street facility lacks conformity in historical significance, but it falls within the Historic District.

Mr. Fernstrom said the envisioned process would begin with demolition in January. He said that only one holiday season would be impacted if they can remain on schedule. He acknowledged that this project will have a significant impact on the City, which is why meetings already have been held with residential and business neighbors and other stakeholders. They continue to have more, starting with a public meeting on October 11 at 6:00 PM in the Hyatt to discuss the displacement plan.

President Colón next made clear that the matter before Council was whether or not the COA should be approved for demolition only. He was sympathetic to those with concerns about related parking, but Council will be voting yes or no to demolish the existing parking garage. It was built in 1976. He reminded that a second COA will be up for consideration as to a replacement structure.

Dr. Van Wirt announced that she will abstain from this discussion because she lives in one of the houses that directly abuts the parking garage.

Ms. Crampsie Smith said this a difficult decision. She agrees that the garage most likely needs to be demolished. But, she agrees with audience comments that “the plan has to be a seamless, comprehensive plan, because if we don’t have a seamless comprehensive plan from demolition to the rebuild, I’m afraid that we are just going to extend the time that we are not going to have the necessary parking in the historic area of North Bethlehem.” She said it was vital that she have relevant information to make informed decisions. Regrettably, she believes that she has not been privy to the necessary information regarding the garage. She only recently was given verbal information, specifically including that the proposal would decrease the size of the garage and selling part of the property for apartments and retail uses. She finds it disappointing that she only found this out a short time ago. Part of what she has heard is that the new garage would have fewer parking spots than currently provided. She would like to see the current parking census data as well as future parking needs especially if the World Heritage Status is granted. What will the height be? Will it be appropriate in the Historic District? Ms. Crampsie Smith acknowledge that there is movement toward making Bethlehem a more walkable community, but she noted that there is a large amount of the population that cannot walk significant distances. We need to have accessible parking for them within the downtown. She also asked whether the apartments will be market rate and, thus, not affordable for the majority of Bethlehem residents. She said if the City is selling the land, should this not be affordable housing? If not, it is incongruent with the City’s affordable housing strategy. Ms. Crampsie Smith said it is vital not to have delays in this plan. If the COA is approved tonight, that will start the clock. Any delays in planning approval and construction will leave the area without public parking for a longer period. She also believes that assurances are needed that the demolition will not impact nearby historic structures. Ms. Crampsie Smith said lacking detail on this subject is relative to the vote on the COA.

Ms. Crampsie Smith also noted that some Council matters have been steered to committees. She cited as an example her proposal to ban the sale by pet stores of dogs that come from puppy mills. She believes this is a simple matter that was not permitted to advance to Council. She asked why something as important as the COA for the demolition of the parking garage could not be referred to committee so Council could review the data and details that have come into question. Ms. Crampsie Smith cited Solicitor Panella’s discussion of the City ordinance that addresses “the effect of the change on the historic nature of the district...” Her interpretation is that it is vital to have a committee meeting to discuss the demolition to see what type of effect, if any, especially any adverse effect, this will have on the historic nature of the district in which it is located.

Ms. Crampsie Smith made a motion, seconded by Dr. Enix, to refer the COA for the Walnut Street Parking Garage to the Public Safety Committee.

Dr. Enix said she was very pleased to learn that there will be a public meeting on this matter. She said she learned more this evening about this proposal than she knew before. We will learn still more on October 11, so she urged to wait until this information is known to have a greater picture of what is to be considered. She said surely waiting another week or two will not make a difference in this project.

President Colón noted the motion and second on the floor to send this matter to committee. He said this is now a point for discussion. He addressed Ms. Crampsie Smith's question about how Council uses committees. Typically, when there is Council legislation that might require more discussion or if it involves amending, the matter will go to committee. Generally, if there is legislation in need of amendments or matters that need more information, President Colón said he steers these toward committee, although he admitted that this has been a learning process in his two years as Council President. The attempt is to minimize putting something on the agenda and then pulling it off of the agenda. As it relates to this COA, President Colón believed that inviting Mr. Fernstrom to this meeting would give adequate opportunity for people to ask questions and receive answers for the garage project.

Ms. Leon asked if it would be possible to schedule a Public Safety Committee meeting soon and would this delay, if it were to occur, impact the demolition bid already received.

President Colón said the scheduling of a committee meeting would be up to the Chair of that committee as well as the Clerk's ability to coordinate.

Ms. Leon asked Mr. Fernstrom whether a delay would create problems involving the demolition bid. Would the project have to be re-bid, etc.?

Mr. Fernstrom provided some history. He said BPA went door-to-door to neighbors about six months ago to solicit feedback. Concerns were included in the bid documents to afford protections such as vibration monitoring and plans, dust monitoring and remediation, and pre and post demolition inspections. He also said it was emphasized how important it would be to protect the integrity of the adjacent properties. Proposed strategies were vetted by the BPA. This includes hand demolition on the rear façade, which is almost unheard of. BPA has 120 days to follow through on demolition. The top bid was very favorable and is one Mr. Fernstrom would not want to see lost. This is from a well-respected engineering and demolition firm. The price was great, too, he said. The clock has started. "It would be sort of a bear to schedule that," he said.

Ms. Leon asked if there is a danger of the bid expiring and BPA losing that favorable price.

Mr. Fernstrom said yes. "I think that any delays that we have could derail the demolition process," he said. He added that the timing is to try to put this on the right time schedule to minimize the impact on the downtown.

Ms. Leon said she understood that the difference in the bids was substantial. If this had to be rebid at anticipated significant increased cost, would the hand demolition portion necessarily be removed?

Mr. Fernstrom said no. But, he did once again emphasize that the bid was at a great price.

Ms. Leon, the Chair of the Public Safety Committee, said she must attend a family funeral outside of the country for two weeks in October. This complicates matters and timelines if she must be present because she is the Chair.

Ms. Wilhelm asked whether discussion is now limited to ...



President Colón anticipated and clarified that this is the motion to send the COA to the Public Safety Committee.

Ms. Wilhelm said she was sorry for Ms. Leon's loss. She said some of her questions and comments are not related to the Public Safety Committee meeting motion. She thanked those who came to speak. She said Council listens and cares. She said she has not received many emails from neighbors to hear their concerns, but she is willing to do so. Ms. Wilhelm does not want to invalidate neighbors' experiences, but she said that Council has not been "strong-armed" as one or more speakers suggested. Nor is it true that Council has not done its due diligence in this matter. She has not been surprised by any information that she has heard tonight involving data presented by the BPA. Ms. Wilhelm added that a colleague said tonight that she learned recently. Ms. Wilhelm said those were project facets that she has known for quite some time. Votes are based on due diligence, conversations with constituents, the Administration, individuals closely related to matters being voted upon, as well as independent research. Ms. Wilhelm added that she parked in the Walnut Street Garage for two years. She could always find a spot. She asked Mr. Fernstrom if the BPA has done research on the garage capacity.

Mr. Fernstrom said that over the past 21 months, the Walnut Street Garage is 30 to 40 percent occupied on average. Data supports this.

Ms. Wilhelm admitted that she knew these answers because she has spoken with Mr. Fernstrom on this subject. The data dovetails with her lived experiences. She also said she is sorry that some will be inconvenienced by the project. She added that, for the two years in which she parked in the garage, she felt unsafe. She also had liquids dripping onto her car, dust, and bits of concrete falling down. She described the atmosphere as "dark and dank." She added that it did not feel user-friendly. Ms. Wilhelm also believed that the consultant involved in the redesign has designed a garage in Lancaster.

President Colón interrupted to remind that Ms. Crampsie Smith has made a motion that has been seconded to send this matter to committee. He asked that comments being made at this point be limited to decision-making as to that action. He said there will be potential further discussion.

"It's 'potentially' that concerns me because what I'm trying to say is that we do have information" about this project. She continued to say that she has parked in the garage in Lancaster. It is well-integrated into the historic center of Lancaster. It is bright. It is open. And it would be an improvement. Lastly, she said there has been talk about the apartments, but there has been little discussion about retail space being offered that will "welcome new small business owners to the downtown."

President Colón again noted that, "we're diverging away from the discussion on the floor." He asked Ms. Wilhelm if she had any other comments related to the motion.

Ms. Wilhelm said, "Yes, there is but I will refrain. Again, my point is that please trust that our votes reflect a lot of due diligence."

Ms. Leon asked for clarification on the motion.

Ms. Crampsie Smith clarified that her motion is to send this matter to the Public Safety Committee and that a Public Safety Committee meeting be held.

Ms. Leon asked Solicitor Panella whether the Public Safety Committee has the right to have a meeting on a matter involving something with a historical question. She said the Parking Authority falls under Public Safety, but this is not a public safety-specific question, it is a historical question. Does the Public Safety Committee have the right to hold a meeting on this COA?

President Colón said he would defer to Solicitor Panella but cited Council Rules which note that Parking Authority matters fall under the Public Safety Committee. He called this an atypical circumstance.

Solicitor Panella said that, if the motion were to pass, it is going to the appropriate committee. He understood that this is a historic-related matter, but ultimately the COA involves the Parking Authority and this would be the appropriate committee to hear BPA matters. HARB has done its job as far as taking a vote on its recommendation.

Ms. Crampsie Smith said she had not received any written data on this subject until last week. She next asked Mr. Fernstrom when the clock started on the 120-day bid proposal. When is the deadline so that a Committee meeting could be held without causing delay?

Mr. Fernstrom believed the contract was approved at the BPA July board meeting. He searched paperwork for an exact date in which the bid was received. The 120 days would be from that date. Mr. Fernstrom said that their availability also would require coordination with the engineers and demolition team.

Ms. Crampsie Smith said that getting information lately has been a problem. She would want to be sure that, if a meeting is held, the information is provided so that she can do her due diligence in order to make decisions and avoid delay.

President Colón restated that he is comfortable with the demolition option and will support the COA to do so. He will vote against the motion to send it to Committee.

Ms. Leon said, considering that the motion is to refer this matter to the Public Safety Committee, she is reading instructions included in state legislation. She does not believe that this would be appropriate. She said this action is on the COA. Council's concerns about the COA are not historic in nature but are public safety in nature. That goes against the state legislation.

Ms. Crampsie Smith said that, in her mind, the meaning of "the effect of the change on the historic nature of the district" includes the concerns for the safety of the surrounding historic buildings during the demolition of the parking garage. She believed this concern falls under "the effect of the change."

Dr. Enix said she thought that Solicitor Panella said that this falls within the purview of the Public Safety Committee.

Solicitor Panella explained that Ms. Leon was quoting the statute that created HARB. Then the City's HARB language reflects what is going on within HARB's purview. There is language for both the state and City legislation as to what Council shall and shall not consider. Whether this goes before a committee is somewhat of a different question. Council can send this to a committee and ask questions, but Council ultimately shall consider when making decisions is dictated by the state statute and what is reflected within the City ordinance.

Voting AYE: Ms. Crampsie Smith and Dr. Enix, 2; NAY: Ms. Leon, Ms. Wilhelm, and Mr. Colon, 3; ABSTAIN: Dr. Van Wirt, 1. Motion to send the COA to the Public Safety Committee failed.

President Colón said Council would now return to the discussion on approval of the COA for demolition.

Ms. Leon said she has multiple questions about the demolition. One is similar to Ms. Crampsie Smith's quoted language that reads: "the effect of the proposed change upon the general historic and architectural nature of the district." She agrees with a concern voiced earlier over ground disturbance. She asked if the proposed hand demolition for a portion of the garage will mitigate ground disturbance that could affect any of the historic houses.

Mr. Fernstrom said that provisions have been included to monitor vibrations and other protections associated with demolition. He said these protections were mentioned during the door-to-door campaign with neighbors.

Ms. Leon asked whether this was conveyed to all neighbors.

Mr. Fernstrom said, "In one form or another."

Ms. Leon said she wants to consider all aspects of this proposal including height, a vibrant first floor or no apartments if no apartments are needed. But she also said she is "constrained by laws that were written before I was born." It appears to her that elements just mentioned cannot be considered by Council when awarding a COA. She said she cannot change state law and was disappointed that this is the way it is. Yet, there will be other points in the process where aspects including height can be determined.

It was asked from the audience whether all of the neighbors are satisfied.

President Colón said that Courtesy of the Floor was offered earlier and that now was not the time for public comment. President Colón said he would ask for the roll to be called shortly on the COA, but he said to Mr. Fernstrom that he hoped a large room was reserved for the October 11 meeting at the Hyatt on this subject. He hoped a lot of information will be presented and reminded that another COA will come before Council at some point with a proposed replacement facility.

Voting AYE: Ms. Leon, Ms. Wilhelm, and Mr. Colón, 3; NAY: Ms. Crampsie Smith, and DDr. Enix, 2; ABSTAIN: Dr. Van Wirt, 1. The Resolution passed.

11. NEW BUSINESS

*Community Traffic Advisory Committee Meeting Dates Posted/Police Recruiting Concerns/Committee of the Whole Meeting*

President Colón was pleased to see that meeting dates for the Community Traffic and Advisory Committee have been posted on the City's website. It was pointed out recently that these meetings did not appear. He also thanked Officer Nicholson for sharing his concerns about a low number of police applicants. He wishes them success in recruiting and adequate number of qualified applicants.

Solicitor Panella interrupted President Colón's comments to ask for quiet in Council Chambers as side conversations were making it difficult to hear. He said that he understood that a tense vote just occurred, but that did not give audience members the right to interrupt the proceedings.

An audience response was made that it was believed that the meeting was over.

President Colón asked everyone to take a breath as Council finishes New Business prior to adjournment. He invited any discussions to occur outside of the Rotunda.

President Colón again thanked Officer Nicholson for raising the concerns and wished success to those working toward filling the ranks with qualified candidates.

President Colón also announced that there will be a Committee of the Whole meeting on October 17 in Town Hall at 6:00 PM to review the Administration's 5-Year Capital Plan.

*Upcoming Community Development Committee Meeting*

Dr. Van Wirt announced that the Community Development Committee will meet on October 10 at 5:30 PM in Town Hall to continue discussion on the Comprehensive Housing Strategy Update Part 4.

*Recruiting is Important*

Ms. Crampsie Smith also thanked Officer Nicholson and Chief Kott for their concern and recruiting efforts.

12. ADJOURNMENT

The meeting was adjourned 9:40 PM.

ATTEST:

Tad J. Miller  
City Clerk