

BETHLEHEM CITY COUNCIL MEETING
10 East Church Street – Town Hall
Bethlehem, Pennsylvania
Wednesday, November 4, 2015 – 7:00 PM

INVOCATION

Archbishop Julius L. Licata, D.D., Ph.D., Cathedral Parish of St. Jude, offered the invocation which was followed by the pledge to the flag.

PLEDGE TO THE FLAG

1. ROLL CALL

President Reynolds called the meeting to order. Present were Bryan G. Callahan, Eric R. Evans, Michael D. Recchiuti, Louis N. Stellato, Adam R. Waldron, and J. William Reynolds, 6. Cathy Reuscher was absent, 1.

2. APPROVAL OF MINUTES

Mr. Evans informed he wanted to give his extended thanks to the City Clerk's Office for these minutes that are 47 pages in total. Mr. Evans reported that he appreciates all the work that was done in such a timely manner.

The minutes of October 6, 2015 were approved.

3. PUBLIC COMMENT

Martin Tower Ordinance

Attorney Marc Kaplin, Blue Bell, stated he represents fourteen people. He represents seven businesses in the Historic Downtown area and represents seven property owners in the residential district. Attorney Kaplin provided the list of clients that he represents for the record.

Attorney Kaplin reiterated that he represents fourteen people and stated that means he gets 70 minutes. He asked if it is correct that he would be given 5 minutes times 14 clients. He stated if he gets no answer he will continue.

President Reynolds remarked that Attorney Kaplin has five minutes to speak.

Attorney Kaplin explained he was retained to review the legal implications of this Ordinance that you are considering tonight. He sent a letter dated October 30, 2015 to the Mayor, Council and a significant number of other people. He would just like to know from Council whether everyone has received that letter.

President Reynolds informed the letter was received by the City Clerk's Office.

Attorney Kaplin provided a copy of the October 30th letter for the record. He stated if you read his analysis, there are at least three significant legal reasons why this Ordinance should not be adopted. You are about to consider for passage an Ordinance that will change the zoning of the Martin Tower property and would allow Martin Tower ostensibly to be torn down. That does not make any logical sense because the tearing down of the Martin Tower would be a violation of the City's Preservation Plan. Attorney Kaplin explained this is a plan he understood took a long time to prepare and he believes federal money was received when the City was designated as a Preservation City. He stated it does not make any sense to pass an Ordinance that flies in the face of the City's Preservation Plan. Attorney Kaplin pointed out that the second part of his analysis has to do with Section 1321 of the Ordinance. Your Ordinance contains a Historic Preservation Ordinance that is very similar to many others. That includes the New York City Ordinance to preserve Penn Central's building, a Philadelphia Ordinance that kept the Boyd Theater in play for a long time before the owners, after a very arduous process, where they had to come before the Historic Commission and demonstrate that they had no economically viable way to preserve the Boyd Theater. Attorney Kaplin added that Council is considering making a decision ostensibly to allow the demolition of the Martin Tower, even though the owners of that property have not come

before you, have not invoked the provisions of Section 1321 of your Ordinance, have not satisfied the pages and pages of requirements, and they are all set forth in his letter. He stated thirdly, and probably most importantly, he simply does not understand how you could consider changing the zoning of the Martin Tower property when in your presentation to the State of Pennsylvania for the CRIZ Ordinance, the key factor there that helped you win it was in your plan, in your application, that you will preserve the Martin Tower building. Attorney Kaplin stressed to Council, if you change this Ordinance and you vary from what you told the State, your CRIZ Ordinance, your CRIZ is at risk. Attorney Kaplin stated in his opinion, passage of this Ordinance tonight would be voidable because one of the underlying principles of zoning in Pennsylvania is that there has to be a rational basis; it cannot be arbitrary and irrational. What you are considering to do is both arbitrary and irrational because you have study after study. He mentioned the Historic Preservation, the CRIZ presentation, the plans that were prepared. Attorney Kaplin remarked you are in the last months of your term and on the way out. It appears that this Council may just adopt an Ordinance that at your last hearing, many members said did not make any sense. Attorney Kaplin stressed that his clients are prepared to challenge that action. That will cost them a lot of money and it will cost you a lot of money. It will hold this City up to criticism for violating, if not the legality, but certainly the tenets of the CRIZ Ordinance. He would hope that Council would just pass on passing this Ordinance tonight.

Krisann Albanese, 115 East Market Street, advised she is a merchant and stated she ditto's what Mr. Kaplin has just said. He took his time to create this letter and Council has taken the time to read it. Ms. Albanese informed if what is in the letter is true, that is what City Council is here for. You are the checks and balances of all the people, residents, and merchants of the City of Bethlehem. Ms. Albanese remarked that the zoning process in the City of Bethlehem is challenging. She knows that first hand and has gone through that process. She would like Council to table the Ordinance, and send it back to the people that have put so much time and effort into where we have come to so far. Ms. Albanese mentioned this is because everyone has so many questions. Ms. Albanese stated her suggestion is that Martin Tower is a beacon of an interesting business plan. Her proposal is to transfer all of the City of Bethlehem government to Martin Tower. Everyone would know exactly where you are located. Ms. Albanese noted she is asked the location of the Library and City Hall. If you transfer all of that it would be a successful plan that could utilize Federal historic tax credits, which we have already received to create jobs, generate tax revenues and strengthen surrounding areas. Ms. Albanese stated the current buildings and underground parking facility could all be redeveloped. We could upgrade this and we could meet the code of occupancy. Ms. Albanese stated she has been told many times that has to be met. She thanks Council for doing their job because she does not want it.

Robert Romeril, 26 West Market Street, stated the facts he is going to relate are those from the local press and information provided to him by what he considers reliable sources. Mr. Romeril mentioned these comments are intended to help sort out the option for action that we are presented with this evening. He noted that is namely the vote up or down on the proposal or vote to postpone so we can find out what is going on. Mr. Romeril then mentioned some of the facts in the news concerning the possible zoning changes involving Martin Tower. First, many people are here tonight to object to it and many people have been here on previous evenings. As he goes around downtown he finds it quite unanimous that if we are not ready to move on this; we should wait. A change in the zoning law that is proposed will essentially allow the existing owner to move forward with development of this property in a timely fashion. It is noted here that no development has been made nor any plans been filed in a number of years. Mr. Romeril informed we are told that changes must be made now, instantly, and there is no time for questions, no time to think, and no explanations that adequately justify the rush to judgement. He noted the Solicitor had pointed out that without possible future revision to the zoning change a developer could proceed with construction and make this a shopping center. It takes no cleverness to realize that this would be the end of the south side and the north side, Westgate Mall and Lehigh Shopping Center. Mr. Romeril advised they will all go down as this special tax free new development is expanded. We are moving towards this without a plan and without adequate safeguards. The City Administration feels the need to tell the public that the change must be implemented immediately with no indication of possible hardship or the magnitude of this hardship. Please note that the developer/owner was not in attendance at meetings to the public to explain the situation or his hardship. At the meeting in which this change was first voted upon there was a presentation. There was time allotted for questions and comments by Council Members and time for Public Comment and a full Council Meeting was to follow. The Administration presentation took about two and a half hours. The presenter is one who has demonstrated an excellent capability of time management in presentation as recently as the presentation she made to the

public on zoning just a few months ago. It was totally unreasonably long presentation time. Mr. Romeril noted with that meeting being so long, it discouraged a large number of public citizens who were assembled to discuss the matter and to quiet any further discussion. He stated he was one of the first people to move into the tower as an employee and worked there many years. The tower was an excellent place to work, and it really makes him sick when he hears people say things about the tower. Mr. Romeril stated the tower is a darn fine place to work. Everyone would get a window in that building. It is proposed to Council the discussion to vote on this matter be delayed until a committee can be formed to review with all parties concerns. This could provide the Administration and the public with concrete plans so a well thought out position could be developed by all those involved. Mr. Romeril noted that old age wisdom says it is better to be silent and be thought a fool than to speak and remove all doubt. He has a slightly different version of that. It is better that a vote be made tonight to delay action until a plan is developed that can pass the change, then to pass the change and remove all doubt.

Martin Romeril, 26 West Market Street, stated he wanted to congratulate the Administration and this lame duck City Council for allowing the citizens the right to speak within three hours of the start of the meeting, unlike October 6th. Mr. Romeril mentioned the Martin Tower property is actually two separate parcels. It is not one massive parcel. It is his understanding that there is a seven acre parcel on the corner of Eighth Avenue and Eaton Avenue that has the tower on it, the parking in front and the garage that is underneath and behind it, and then there is a 46 acre L around that. Mr. Romeril noted the remainder of the property is actually 46 acres of open space. It is undeveloped. There are a few out buildings that are attached to the tower. One has a magnificent auditorium in it that would be better suited for City Council Meetings where the public wants to speak. He thinks that is a wonderful idea. Mr. Romeril stated the larger property actually represents a lower cost to the City should they do something great for the public. That would be to seize it through eminent domain and make public use for a public park. Mr. Romeril stated he would call it the Dolores Caskey Memorial Park, a gift of enduring value to the entire community and to future generations. He remarked, but box stores are a thing of the past. He can go to Whitehall, Bethlehem Township or Macungie for the world's largest box store in Lehigh County. He does not see how box stores or two box stores with a strip mall are a future of this City. Mr. Romeril knows that people talk about money and that we need money, but we could pave over every inch of this City and get more money. He continued, we could charge parking for people who want to go to New York City and make money, but is that is what is best for our community? Mr. Romeril noted imagine being able to walk from Illick's Mill Park down through the golf course to the park across the street across from the golf course and to the Dolores Caskey Park, and then to Burnside Plantation along the Monocacy Trail through the Colonial Industrial corridor and up to Historic Main Street. You could then travel along Historic Church Street, pass the Serenity Garden, cross the Fahy Bridge to the south side shopping district to the Greenway and maybe eventually over to Saucon Park where our City borders Hellertown. Mr. Romeril mentioned if we would take the larger portion for the park and leave the tower to the developer, rezone that seven acre parcel and let them have it. Now is the best time to take the larger property through eminent domain because they have insisted it is not worth anything. Mr. Romeril noted a bond could be floated and maybe people would want to buy shares in the park. He continued there are all kinds of things we could do and that would be a gift of enduring value for generations to come. Once you cut it up, pave it over, cut down a thousand trees in cash for trees program that was described on October 6th, we could use that money to put a tree somewhere else in the City. A Council Member asked about the trees and a member of the Administration stated for every tree they cut down, they have to put some money in our escrow account. Mr. Romeril queried if they have looked at how many trees are there because there are over 400 trees not near the edge of that property. Mr. Romeril begs of Council not to proceed with this reckless change in the zoning code. What is to stop the developers from filing a plan tomorrow morning that has the legal effect of law regardless of any changes Council promises to try and ram through as soon as they get around to it. It should be done right the first time. He begs of Council to reconsider and think about the enduring legacy that could be given to the future generations of this City by considering making a park out of that parcel. Mr. Romeril stated that the horses could run on that area. He queried if the developers have offered us 12 acres along Burnside Plantation for the horses to run. He stated, no, they have offered us nothing; we are getting nothing out of this. Someone else is pocketing a lot of money and we are not getting any of it, and he just thinks this is a shame. It is bad enough to have one party government in this City with no opposition, and no one to go to and talk about this. Some Council Members mentioned it is being rammed down our throats. We are being railroaded but it was voted through 6-1 and that is not being railroaded. Mr. Romeril remarked you are not being forced to vote for this so he begs of Council to reconsider and bring the community into this.

Steve Diamond, 425 Center Street, noted we have a wonderful community downtown and as we have watched the downtown Historic area grow, we are really very proud of it. Mr. Diamond mentioned that young families and empty nester are moving in, and we have noticed that it has even been in magazines how lovely our downtown is. Mr. Diamond remarked if you put a rezoning with a lot of retail just one mile from downtown that you will have unintended consequences. He noted that businesses will move, employees will leave those jobs for other jobs, foot traffic will decrease downtown and you will end up with stores closing. Mr. Diamond added that it will be easier to go to retail shops over there because there will be no parking meters, and of course the taxes that they charge will go towards their mortgages. They will be able to compete better against the businesses that are downtown. He mentioned there was a book that was written by a gentleman, David K. Johnson, and it was called Free Lunch. In this book he talks about the destruction of Hamburg, Pennsylvania due to Cabela's as they ended up with the CRIZ. They put the people out of business and then those same people got jobs at Cabela's for half the price of what they were making in their own shops. Mr. Diamond is afraid to say that you could say you will create jobs but the end is you will be destroying the businesses downtown. He feels you will end up with people making less in the end than what you have now. Years ago we also saw the destruction of Allentown with a mall which was not even that close. When he came here in the early 1970s he noticed what happened to downtown Allentown. The problem he also sees as a physician running a laboratory is that he always asks how the instrumentation works. He does not want a black box; he wants to know what is inside of it. Mr. Diamond noted to him, there is not a plan yet that has been looked at to see what they are going to be doing with the rezoning and expressed that buying a black box is not a very smart thing to do. He thinks we should send the Ordinance back to the Committees that would oversee this. Mr. Diamond advised without a plan right now, it seems that the property is going to be just flipped, meaning that you will give them the opportunity to have retail and all of a sudden their investment is skyrocketed into a higher value. The developer can sell it to someone else who would come in here and do whatever they want to do. He thinks it is imperative that if you will do a rezoning that the developers come here or come to the Planning Commission and demonstrate their willingness to show what is going to be developed. Mr. Diamond thanked Council for this time to speak and he hopes they make the proper decision.

Rocco D'Amato, 65 West Market Street, stated he had the opportunity at the last meeting to commiserate with the difficulty that Council and the Administration is confronting and the varied considerations. He wants to make it clear that he has no question about your good intent and he thinks that with the information you have been provided you will make a decision that is in the best interest of the community. Mr. D'Amato noted having said that, he does want to point out one of the things he said at the last meeting, which are the unintended consequences we experienced in Tribeca. He moved his company from New York to Mill Road in Allentown. We always planned on a retail component to our business and having moved to this town four years ago and loving it, one of the things he thought to do was purchase a building downtown and develop a model of a store that they will ultimately replant from New York City. The company's origin is 130 years ago in New York City and he thought this would be the perfect place to test out a model. Last Thursday a person in the community mentioned that a building was for sale and so he looked at it. Mr. D'Amato mentioned in the middle of it he said this place will be devastated by a Martin Tower development. He does not want to buy a building here or put a retail development in this place. He may look towards Easton or some other City. That is like rooting for the other team, but in terms of business it makes no sense for him to put the business here because it is going to be devastated. Mr. D'Amato wanted to announce that he is the very first unintended consequence you will experience in this plan. He remarked this is not a made up statement. He has the credentials. He does understand the intent of the Council is to reduce the amount of square footage and appreciates it, but stated you do know if you pass this tonight the opportunity exists for the developer, who did not submit plans, your intent and wishes cannot have it. He has one simple question which is, knowing that why would you vote for this? If what you intend and wish to happen can be violated, why will you vote for this?

Peter Crownfield, 407 Delaware Avenue, reported to the Mayor and Council he would say that after every election it seems we hear complaints about the low turnout and politicians wondering why this is and why young people are not participating. If you want to know why people do not participate in politics, and do not trust the political process, all you need is a mirror. What most of you would see is an elected official who made statements saying the new Ordinance is seriously flawed and needs a retail cap, and then vote for it anyway, even knowing it is wrong. Mr. Crownfield informed this makes no sense. The zoning that exists now should be left in place

until you can pass a law that makes sense. Mr. Crownfield feels it is irresponsible to open up a window which would be a six month window with this Ordinance, if you pass it, would be the law. Any change has to go back to the Administration, back to the Planning Commissions, a public hearing and then two votes for Council and that would probably not happen before the summer of next year. He would ask Council to vote no on this Ordinance. Do not table it as that would be silly. You cannot change it because it needs to be voted down. Do an Ordinance that makes sense for the City. Mr. Crownfield noted otherwise you are letting the City down and not living up to your responsibilities.

Charles Lyman, 444 North New Street, stated he urges Council to vote down this Ordinance tonight for the reasons that have just been given very eloquently. Mr. Lyman added that it seems to him that we have the opportunity with this site to have hundreds of housing units within walking distance of one of the most walkable cities in Pennsylvania. This is a place where people can walk to downtown, which is very difficult to do in most cities, but we can do this in certain parts of our downtown now, and it is wonderful. We could add more walkable housing areas that would lead to our downtown businesses and restaurants. Mr. Lyman stated he is very fortunate that he can walk right down to a restaurant in the evening such as the Hotel Bethlehem, particularly in a snowstorm. When it snows and you cannot go anywhere else and you want to have a meal or a drink, you can walk to our Hotel. He does not see a problem with a mixed development that includes significant housing along with limited commercial development. This would bring a new population to our downtown area where people can walk to businesses and walk to places of interest like our library. Mr. Lyman does see a significant problem with a large commercial development that is so large that it would take business away from Main Street, Westgate Mall and from the south side and the Lehigh Shopping Center. He has had experience in Lakeland, Florida. In Lakeland, Florida you can go along some of the boulevards where the shopping centers they put up in the 1950s and 1960s are now derelict because they built another one down the street. Not only can you see one generation of a derelict shopping center but can see two generations of derelict shopping centers because another big one was built just a little further away. Mr. Lyman noted he does not think that is what we want to have for our community. It has happened in other places and he thinks it is worth voting this down tonight and taking a good look at how we can best develop our remaining few thousand square feet of downtown to best serve all of our citizens and keep the community that we have vibrant with the same character. Mr. Lyman noted you would like to plan in such a way that you do know what is going to happen. But, if you do not plan you will be sorry in the future. Mr. Lyman hopes that everyone here in this room is looking towards a great future for our downtown, our commercial area and our residential establishment in the downtown area which is unlike other cities in Pennsylvania. If we lose it, we lose the combination of businesses, restaurants, residences and where facilities that can be walked to.

Ted Morgan, 925 Prospect Avenue, stated having already written a piece in The Morning Call and being interviewed, he has two straightforward comments. He has some numbers he would like to share. Mr. Morgan noted it did occur to him when he was walking up here that perhaps it is criminal to charge demolishing someone who was a write in candidate for City Council, but seriously he will argue enormously to greatly reduce the commercial development of the site. He suspects Members of Council have been talking about how much they will reduce it but he will suggest that they need to reduce it more. Mr. Morgan expressed the fact that he does this not only because of the very valid reasons that the merchants in downtown Bethlehem have made, but because Eighth Avenue, in the area of West Bethlehem that it serves, is extremely vulnerable to traffic. Mr. Morgan stressed the commercial impact of development of Eighth Avenue has greatly increased traffic and has a negative impact on West Broad Street. He stressed that major traffic taming has already occurred on Eighth Avenue in the form of four new traffic lights, widened corridors and right left turn lanes being added to make the traffic move more smoothly. Mr. Morgan noted according to the City's Comprehensive Plan of 2008 the average daily vehicle traffic on Eighth Avenue is 18,000 vehicles a day. According to the Institute for Transportation Engineers a 200,000 square foot build out of a big box general merchandise store would generate an additional 12,000 vehicles per day. More commercial development would create more traffic. Mr. Morgan pointed out for comparison that would mean that Eighth Avenue would generate 30,000 vehicles per day and for comparison MacArthur Road in Whitehall has 30,000 vehicles per day. Route 378 in West Bethlehem has 38,000 vehicles per day. Obviously, the City would be creating a major problem with the build out of 200,000 square feet or more of commercial retail, especially big box retail. We cannot do much more traffic taming on Eighth Avenue. The optimal package he would suggest, and he is not saying Council has control over all of this, would be a combination of about 150,000 square foot of retail/commercial, plus residential

housing in the form of starter or empty nest condominiums, or apartments to avoid the tax costs of more school students. Mr. Morgan added that is something that the Planning Commission would obviously have to deal with. There could also be open space for aesthetic and recreational purposes; perhaps a Dolores Caskey park.

David Klein, 4517 Greenfield Road, Hanover Township mentioned that he does live in Hanover Township but did ascertain last time that he can still speak tonight. He testified at the first Public Hearing and mentioned that he wore three different hats with regard to this matter. Mr. Klein stated his first hat is as a resident of the Lehigh Valley and as such he embraces what they are trying to do, he loves the idea of a lifestyle center. He vacations and has property in Myrtle Beach and goes to the Market Commons in Myrtle Beach. It bypasses downtown Myrtle Beach, and he loves all of the designer stores and restaurants. Mr. Klein noted there is no doubt that if this were to happen, as it has been proposed, this is where he would be. But therein lays the problem, because he would not be in downtown Bethlehem. Mr. Klein informed the next hat he wears is as a realtor. He manages approximately 42,000 square feet of property on Main Street and he is worried for his tenants. He assures that downtown Bethlehem is not bullet proof. Mr. Klein affirmed that the third hat he has is as a property and association and business manager. He manages close to \$100,000 million worth of real estate in the Valley. He has combined budgets of approximately 25% of that of this City. He manages over 20 Boards and he does not envy any of you anymore than he envies the members of the many Boards that he manages. Mr. Klein stated, with that said, he can assure you having frequently dealt with non-governmental situations but somewhat similar situations, no members of any of the Boards he works with would do anything but recuse themselves when faced with at the least a perception of conflict. He is not saying there is conflict. Mr. Klein noted there is the perception of conflict. As the media has pointed out, that certainly is the case in this point. On the Pennsylvania government website, he noted, the City Revitalization and Improvement Zone, the CRIZ program, was established to spur new growth in cities that have struggled to attract development helping to revive downtowns. Mr. Klein stated those are key points and he would like to emphasize that. He added it also stated to create jobs for the residents in the regions. It was not established to revitalize the suburbs at the expense of the downtowns. Mr. Klein confirmed that he spoke to a tenant in downtown and stated this is an actual case study. He is happy to share the following numbers. Mr. Klein advised the size of the suite and the retail space is 1,850 square feet. The rent is \$2,950 per month, which is \$19.14 per square foot. The tenant's gross sales are \$600,000 per year. That is \$325 dollars of income per square foot generated on an annual basis. The sales tax is \$36,000, payroll is \$220,000, the PA and local taxes are \$8,954 dollars. The PA corporate stock tax is \$4,500 dollars, and the Business Privilege tax is \$3,000. Mr. Klein noted the total CRIZ credits available to someone of this nature that would relocate to this area would be \$52,450. Since his total rent is \$36,000 how can this person compete with the business that would go into a CRIZ that could open up something very similar and competitive to the business that he has downtown Bethlehem. Mr. Klein mentioned related to that he spoke to Debbie Skeans, one of the most credible foremost appraisers in the Lehigh Valley who has addressed many of the leaders in the Lehigh Valley regarding real estate valuation, sales and development for many years. In her opinion this is a decision that, which as large as that which was allowed for the development of the Casino, this could be a decision that could have a devastating impact for many years. Economic impact studies should be completed, and evaluation and highest and best use studies should be done. She knows for a fact that no national/international relocation broker has been retained to market the property. What a blessing it would be to bring a company that would relocate and hire 1,800 people that would bring more feet on the street. This would add to our economy as compared to adding as much as 1.3 million square feet that would only compete with the existing retail infrastructure of people and resources. Mr. Klein noted there is an unprecedented need for apartments in the Valley. Please note, unlike many you have heard from tonight, he has no personal stake in downtown Bethlehem but he cares for its continued economic viability as he does have millions of dollars of investment in the Lehigh Valley. It is impossible for the suburbs to be financially viable without a strong center core. Mr. Klein pleads for time to do the proper studies before such an important decision is made.

Barbara Nelson, 147 East Broad Street, urges Council to vote down this Ordinance and added that she is a long time Bethlehem native. She grew up here and she has seen Bethlehem as its finest and lowest points. She noted she has moved around and has been at different locations. Ms. Nelson can tell you that our downtowns are very different. If you are under the delusion that we can rebuild, we cannot. If we do not support them they will be abandoned and in decay. Ms. Nelson noted that Bethlehem has a special feel that does not exist everywhere. If we do not support north and south Bethlehem they will lose their identity. Ms. Nelson remarked if we create box stores what is to stop urban sprawl and cookie cutter places that all look the same. We do not

need box stores at the Martin Tower location. We need downtowns that have small and vibrant and local businesses, like the Moravian Bookstore, Donegal Square and Deja Brew Coffee House. She supports the zoning for apartments and a park. Keep Martin Tower and the trees.

Mike DeCrosta, 914 Walters Street, remarked he has the proposed Zoning Ordinance in front of him and he went through it page by page. He would like to point something out. Under 1311.01, under Purposes of the new Zoning is added letter (g) "Encourage principals of Smart Growth to promote compact mixed-use development." Mr. DeCrosta noted at the last meeting Ms. Karner and a spokesperson for the developer were both asked what they envisioned. They said it would probably be big boxed and he believes that Ms. Karner stated in her professional opinion it would be big boxed. Mr. DeCrosta thinks to put this zoning forward and encouraging principals of Smart Growth, and then to come upon the realization that we are probably going to end up with a big box store, that is actually the problem here. Reducing retail is important but he thinks this actually is the thing you should be talking about. Again, he does think much of where we are at was enabled by the Lowe's Development across the street. Mr. DeCrosta stated if you would imagine in another world where we knew this would happen and we created the CRIZ application and it included tearing down Martin Tower and putting in a Target or Panera Bread, he cannot imagine a certain area in which that would have won. Please take all of that into consideration. To say we are encouraging Smart Growth and then allow for big box, that is at best a little misleading and is that worth really misunderstanding what Smart Growth means.

Michael Celente, 4 Campus Square, Lehigh University, stated he wanted to speak from a student's perspective because many times at these types of meetings we are spoken for by other people. Many times people say that students want these big box developments, and we want Chipotle, and Panera Bread, but the majority of students do not want that. Mr. Celente added that in talking to students at Lehigh and talking to his friends, when we make our memories, even if we are here for four years, we make those memories at places like Blue Sky Café. We make our memories at Sal's or Mama Nina's, and at local stores and businesses. Mr. Celente advised if you were to rezone Martin Tower and take that away from the students you would be doing a disservice to them because it is not what they want. He works at Admissions at Lehigh, and related a story of an alumni, a father, who came back and asked if the Tally Ho is still here and remembered that he had great times there. Mr. Celente thinks if you put in a Chipotle you take away from a place like Tulum. If you put in an Olive Garden you take away from Sal's and Mama Nina's. What Bethlehem is as a City is those small businesses and those small stores. He would like to come back in 20 or 30 years with his family and be able to go to the Moravian Book Shop or the Hotel Bethlehem. He believes if you rezone Martin Tower that might not be a possibility.

Jeff Fegley, 2027 Majestic Overlook Drive, stated he is co-owner of the Brew Works and mentioned there were many great points. This is not the first time we have heard them, just a repeat and repeat of maybe stronger voices this time. He respects each and every one of you, but cannot come here and say Council has a thankless job, because you signed up for it. Mr. Fegley reiterated that Council signed up for this job so he will not come to this podium to make you feel better about that. He remarked you knew what you were getting into. He did not prepare anything because he knew it would be like this. It is not his first time in a setting like this. He has been through this in Allentown. Mr. Fegley remarked he is very sad to think this is potentially happening here in Bethlehem. Many times when he gets into some sort of banter back and forth he takes time to listen to what the other side is saying. Mr. Fegley noted in this particular case he is listening to what was said last week by Council and is hoping to hear what Council has to say this week. The last time he spoke he said a few things. One was that recusal is not a bad word. It is something that is real and should be done when it seems like something just does not fit right. We are still not seeing that, which he thinks is disgraceful. Mr. Fegley mentioned this developer has not done anything to get this property going and somehow last week or two weeks ago he kept hearing that there is urgency and that it is rushed. We all agree we should not do it the way it is, but we have to do it. Council then voted for it, which is ridiculous and unethical. Mr. Fegley is still wondering what the rush is because when you look at conditions the way they are, without them doing anything, he remarked just walk away. Table it and go away, and let time do its thing. Mr. Fegley stressed this incentive of the CRIZ is thirty years, and there is a rush but what is the rush. Just today or a few days ago the article that was in the newspaper talked about millennials and empty-nesters. We want more luxury apartments in Allentown. Not long ago the idea of people paying \$1,500 a month to live in downtown Allentown would have been unthinkable but today apartments in City Center Allentown are renting faster than developer J. B. Reilly can build them. Mr. Fegley informed that Mr. Reilly on Tuesday announced plans to spend another \$20 million to build yet another upscale apartment complex on North Sixth Street. He added that

apartments, called Strata II, will be a 66 unit extension of the 170 apartments that Strata Flats opened in July. He noted that Strata Flats is 97% occupied and quoted "I am kind of kicking myself a little for not being further along in planning the next project, Reilly said. The demand is greater than anyone expected and it is a good problem to have." Mr. Fegley remarked that Mr. Reilly decided that the new apartments are so important that City Center and City Line are scrapping a previous \$1.9 million project to rehabilitate six vacant three story buildings on Sixth Street. Those will be demolished to make room for Strata II. They cannot build luxury apartments fast enough. Millennials and empty-nesters do not burden our schools and they are looking for places to live. Mr. Fegley remarked is he wrong or is he right, that the current zoning and all the incentives in place and the money that is there to clean up the environmental concerns and so on and the drawings that exist to convert that into housing, which happened in 2007, to ask what is the rush. Mr. Fegley believes we should form a committee. Take the time and redo everything and get all of the ducks in a row. Do the impact studies that are needed and take time. Someone from Council, when they speak tonight, they better explain to him the rush because they said and we all agree it has been vacant too long, but that is what the developer decided to do. They could have marketed otherwise, and do something else but, they have not. Mr. Fegley stated this looks and smells like a giant favor. It is really ugly and it needs to stop.

Bruce Haines, 63 West Church Street, advised he wanted to follow up and say he is one of those Lehigh students who made his mark in small business and added that his initials are carved in a table at the Tally Ho, just like many others. He wanted to reiterate what he said last time. Mr. Haines stressed the fact that the way this property is zoned right now is absolutely perfect. It was well thought out in 2006. The developer is the one who asked for this. He would suggest that there are plenty of developers that would be thrilled to buy this property the way it is zoned right now, with the CRIZ on top of it. Because it is zoned for office, it really should be an office park, with residents and apartments that are in high demand in the back part, closest to downtown. That would be a wonderful thing, and then bring a company from New York City or New Jersey to the tower. He continued you would have a wonderful complex the way it is zoned today. Mr. Haines commented that everyone talks about the fact that we have to rezone, but we do not have to do anything. The right zoning is the way it is today. He mentioned that Guardian is consolidating all of their employees in Hanover Township at the Lehigh Valley Industrial Park and questioned why they were not lured to a wonderful setting. They could have filled the tower, but the developer was not even there and was not even seeking them to come to this property. Mr. Haines stated he talked to Guardian. The developer did not even consider it because they were not in the game. He remarked they did not spend any of the \$12 million and \$7.5 million RACP to do the asbestos, sprinklers and the elevators. He could have done that and had the property ready for market. It has not been ready for market, yet he said in the CRIZ application or the City said in the CRIZ application, that it was readily marketable in its current condition. That was less than two years ago. Mr. Haines stressed that this developer has not done anything so the best thing you can do, because you say you have to do something to get this thing going, is to vote this down and do not even talk about another plan. If the developer knows he will not get something better to maximize the CRIZ, he will sell the property to somebody that can develop it the right way, the way it is zoned today. Mr. Haines remarked now you want to give 400,000 square feet and that is not even the 200,000 square feet that was spoken of last week. We read in the paper that it might be 400,000 square feet. Mr. Haines wanted to speak of what that means if you vote for this developer who has already demonstrated his main objective is to increase the value and put it on the market. He got the CRIZ and that increased the value again. So, what does 400,000 square feet in retail mean to the developer. Following on David Klein's comments, the average retail sales per square foot is \$200 a square foot per year and 6% of that, just taking the sales tax is \$12 a square foot and times 400,000 square feet is \$4.8 million per year. It does not go to Harrisburg. He gets to keep that. Mr. Haines noted that does not even count the payroll for the people that work at the property and the Capital Tax for the businesses they make on the property that he also gets to keep. So we are looking at a \$6 million a year benefit. The minute you approve the zoning, even at 400,000 square feet what happens is that at a 10% return on \$6 million a year means the value to some future buyer is \$60 million for that increased CRIZ amount. You are voting to put \$60 million in the pocket of someone who got this CRIZ not in a public forum. It was signed behind closed doors by the former Mayor who assigned and picked six favorite developers. Mr. Haines stressed that Council should think about this before they vote and just leave the zoning the same. General Custer said we have to do something and then he ran into Little Big Horn. He should have said we have to do something; we have to stay right here and back off. That is what you need to do now.

Neville Gardner, 381 Biery's Bridge Road, informed he is the owner of Donegal Square and McCarthy's Red Stag Pub and Whiskey Bar and he has a little project going on now at his business that he is paying for by himself. Mr. Gardner stated if Martin Tower had no CRIZ, what would be happening? He has been thinking about this over the past few weeks about what would be the best thing for the City, the small businesses, and the developer to try to have a balanced viewpoint. Mr. Gardner stressed that he threw numbers around, such as what if it was 200,000 square feet, what if it was a big box, what if was a combination of 30,000 square feet. Mr. Gardner noted that the Members of Council are smart people. He knows you have gotten the letter from this Attorney and have read this and will not vote for this Ordinance tonight, but will vote for a revision. He continued if that is the case, he has some advice. Do not vote on a revision without talking to all of the interested parties. What he means by that is that we have not had a chance to think this through totally and come up with what is the right number. Mr. Gardner noted there are a lot of really smart people around here, many planners and many people with statistics on traffic, and there are many things that need to be considered. He continued you cannot just rush this though. You need to sit back, take a deep breath, go back to the drawing table, and take a look at all the numbers. Mr. Gardner added that you need to take the considerations of everyone into account and take a really hard look at it. We have heard enough people say what they think will happen. No one knows the answer but it deserves the time. He does not believe that the CRIZ on that particular property starts until the first dollars is paid. He remarked he does not know the whole story but urges Council to take their time. Do not vote for any revisions that are not thought out properly.

Mark Nebbia, 27 East Church Street, remarked that he is an empty-nester and a new resident, and has invested heavily in the City by renovating his home. He urges Council to back off as well with this proposed Ordinance. He thinks it would be better to reconsider the proposal, come back and have this group support you. Mr. Nebbia noted that many of the folks here seem to feel that you have not thought this through and they all want to know where the City is going with this. Mr. Nebbia remarked that Yogi Berra said "You have to be careful if you do not know where you are going, because you might not get there."

Dana Grubb, 2420 Henderson Place, commented what we really have here is a marriage on the rocks. When you as elected officials first looked across this room and caught our eye, you started whispering sweet nothings in our ears and said if you elect me, I promise this and that. All of a sudden we got love notes in the mail; a lot of promises. Once the relationship was cemented and we became engaged after you were elected, the wedding took place. Mr. Grubb stated like most relationships things get a little rocky along the way but the relationship continues on despite those good times and bad times. Then one day something comes along and all of a sudden you are not looking at us anymore. He mentioned the CRIZ, growing the tax base, campaign contributions, and developer's money. Mr. Grubb stated no longer are we the apple of your eye. He continued behind our backs, meetings are held, discussions take place, and we do not know anything about it. The end result is that a lack of trust develops and that is a very serious thing. Mr. Grubb remarked that tonight our government and elected representatives have an opportunity to begin to repair the damage done as the offending partner in this relationship. Will you throw it all away or will you realize that the single most important thing that can develop between two entities is trust. Mr. Grubb advised if you are concerned about possibly pushing this off to the next Council because you will have three new Council Members, do not be. One of them has reviewed this on the Planning Commission and she is very familiar with the issue and the other two have been coming to Council meetings. They heard the testimony and commentary. They are as prepared as you are if you give this the amount of time and consideration and analysis that it deserves. At the end of the day it is about trust so think about that because the last thing you want to do is end up in divorce court.

Joanne Smida, 452 Main Street, remarked she is the owner of Handcut Crystal. She will not say much but she is present because she is a preservationist. She does love the Bethlehem area but she also does love the Lehigh Valley and preservation. She does not own property on Main Street. She does have family members that live in the area of Bethlehem, but she did find that statistically if the downtown fails, or your downtown area is not prospering, then your residence value does decrease. Ms. Smida stated that is a known fact. It happened in Allentown and now they are bringing in young people and hopefully they will bring up values again. She just fears that this is a possibility that could happen in Bethlehem. As she said in the past when she spoke before, you cannot always stay at the top especially if you are not watching what you are doing. Ms. Smida appreciates that Council will think about this when they make their decision.

Carmen LoBaido, 458 Main Street, stated she is the owner of Artsy Diva Boutique. She expressed the gentleman who said something about the park like setting and creating a nature environment at the Martin Tower site had a good idea. Why cannot Bethlehem be different than all the other towns around us and why does everything have to be about big box stores? When people come into her shop one of the things they do say is how much they love the downtown. Ms. LoBaido added that these are people not from Bethlehem, although people from Bethlehem say the same thing. She gets many comments from people who are visiting. They say how beautiful our City is and how they love the downtown with the charm of the little shops. Ms. LoBaido thinks without that there, how charming would Bethlehem be, or would it just become another Costco area or mall area. People do not come to visit little cities to see that because they can have that in their own towns. People come to see the beauty of the buildings, the little shops, to walk around the brick streets. Ms. LoBaido stated Mr. Callahan should come downtown and go in front of The Attic because she does not know where he is saying those sidewalks were fixed, but they were not. There are holes where bricks are missing and there was no sand put in between the bricks so women's high heels can get caught.

Al Wurth, 525 Sixth Avenue, stated he cannot expand too much on what has already been said. He believes this zoning plan is an enormous self-inflicted wound by the City that he does admire, but has never understood what its assets and liabilities are. Mr. Wurth noted that most people would love to live here and to walk to a downtown which is exciting. He continued most people know where to go to get to the generic and big box stores and they know what happens when you subsidize the wrong people. Mr. Wurth stated he has been in Bethlehem for 30 years and he has lived many other places. We are surrounded by insurmountable opportunities and this is another one where we had the perfect opportunity to take advantage of incredible assets, but instead the current plan appears to be to tear down the unique stuff and replace it with generic on behalf of an out of town developer. Mr. Wurth mentioned can the City that made the steel that built the Golden Gate Bridge and other bridges, the New York City skyscrapers and other famous landmarks be okay with tearing down its local skyscraper that is listed on the National Registry. Is it too big a challenge for a town that historically welcomed challenges like fighting wars and making provisions for that and all of the other things, to rehab the sprinkler system and remove the asbestos from its landmark building. Does it make any sense to destroy a building with 600,000 square feet of space on a footprint of less than an acre as part of a custom zoning plan, presumably written by the developer, for covering 50 plus acres a little more than triple per footage with low rise suburban retail development. Mr. Wurth noted there is only about a little over 2 million square feet on the whole 50 acres. Mr. Wurth queried if we really want something like MacArthur Road in Whitehall. He added could there be a better building in the Valley for unobstructed views for which tenants would pay premiums to enjoy? Mr. Wurth wondered if he is the only one that thinks this is a unique thing to have in Bethlehem. Has our CRIZ and political dealing replaced commonsense for everyone but the out of town developer counting his taxpayer subsidies. He queried, are we going to pay somebody \$60 million to do deliberate harm to our community, for that is what has happened here. Mr. Wurth noted that the developer will undermine some of our best real estate and some of our most agreeable neighborhoods. Mr. Wurth wondered if anyone has asked for the reactions of the people and families that built and worked in that building. This is an historic site; there is only one place like Martin Tower on the whole planet. Why would we trade Martin Tower to duplicate the west side of Eighth Avenue on the east side. He is afraid that we will become a Steel city that demolishes its steel heritage and the works and dreams of its forbearers in favor of incentives, sweet deals for new owners who apparently control our future. Mr. Wurth added that the developers never did and never will live here. We are making a special law for just these people. He will not be as sympathetic to Council and the Administration. Either you know what you are doing or you do not, and he does not know which is which.

Breana Holland, 379 Carver Drive, mentioned it is really hard to say more than what has already been said. It seems like a variety of good questions have been asked and not many answers have been given. Ms. Holland noted she did not speak at the last Council meeting on this topic because she was sick but she sat outside and many people spoke stating they want to see the studies and more justification. We really did not get any response from anyone such as information about the economic data or suggesting that there is a demand for this type of development. She just wanted to encourage what everyone else is encouraging, which is that you not amend this Ordinance and try to make revisions. Rather vote it down and take some time to figure it out to do what is right at this site. Ms. Holland stressed that the conversation here is very similar to one we had last year about development projects on the south side of Bethlehem, that were being proposed by developer, Dennis Benner. In that instance we saw something very

similar where there was some very thoughtful planning that had gone on prior to the discussion to develop an Historic District Ordinance that was then just ignored when some developer came in and threw some money around. Ms. Holland added that this would be a potentially significant cost to small businesses. Ms. Holland does not see anything in any kind of revisions that Council did tonight that will prevent the kind of development that damages businesses. What is it that you are actually going to do? If you all think that it is not a good question, then provide us with some answers about concrete things that you will do to prevent those kinds of businesses that are competitive with the ones downtown. Ms. Holland mentioned maybe that should be part of the Ordinance where you cannot bring in a business that would actually compete with one that is downtown. She thinks that the idea that is really the most strange to her is to see all of this work that goes into planning with the community for a very long period of time and then for some reason it just seems to get thrown out the window when someone comes in waving a big bunch of money around. She does not actually agree with Mr. Callahan that some of these projects have been good. She is not happy that we have a Lowe's. She would rather have smaller hardware stores. Ms. Holland noted that brings money into the community, rather than giving it to shareholders in distance locations. In her opinion those are good development projects; we do not need these big box stores. Ms. Holland mentioned no matter what, we should not just disregard all the work that went into creating Ordinances that were actually intended to build our community assets, and our small businesses are community assets. Ms. Holland noted, just to echo what another speaker said tonight, it seems to her that this is something you might want to worry about. It seems to her that there is a little bit of discontent about some of these decisions. Ms. Holland added that Mr. Recchiuti lost his seat on Council, barely, but he was one of these people who was interested in actually not paying attention to the Historic District Ordinance last year when people were upset about being violated in South Bethlehem. She also noticed with the numbers from yesterday that J. William Reynolds did not do so well. This suggests that there is discontent. People are upset, and if you continue to make these decisions, she thinks electorally they should worry about it. Ms. Holland noted it is a good idea to listen to what people are saying. Take your time, go back to the drawing board, involve the right people in the conversation and then maybe you will end up able to stay in your seats for longer.

Andrew Dorman, 31 West North Street, mentioned many are confused about the motivation behind the Council's decisions and he was wondering if he could clarify that. As he understands this, the asbestos is going to cost roughly \$8 million to fix and it will have to be repaired anyway even if the tower is demolished. According to a 2006 study, there would be \$7 million to fix it so he would estimate that it would be roughly the same whether or not the tower stands or falls. Mr. Dorman remarked that issue is sort of irrelevant. Also, many people were worried about another downtown, and he can understand that but the closest shopping area to Martin Tower is Westgate Mall and that is easily assessable from two highways, Route 22 and Route 378. Mr. Dorman noted one of the motivations to put a retail district where Martin Tower is, located is because it is close by to those highways. We could look at Westgate Mall and estimate how this would be successful based on the success of Westgate Mall. As he understands it, Westgate Mall is not too successful so this would be doing the same thing and expect different results. Mr. Dorman commented that there were protests yesterday where people placed the name Martin Tower as a write in ballot in place of certain Council Members. We do want to see Main Street Bethlehem thrive, but they chose the term Martin Tower and that seems to be the emphasis. If we fix the asbestos and get that straightened out, we can absolutely start getting tenants into that building and we can make that successful once again as it was back in its heyday. Mr. Dorman wanted to say thanks for giving him this time and he hopes Council will reconsider the zoning issue. He thinks it should stay the same and in fact he thinks the tower should be placed back on the anti-demolition list.

Stephen Antalics, 737 Ridge Street, mentioned he wished to expand on his comments from the last meeting and add some other observations. He referenced a neighboring city and the breakdown of moral and ethical principles, and the presence of the FBI. Mr. Antalics also remarked he is disturbed by some articles he read in the local newspaper regarding the influence of campaign contributions, and crony capitalism. Recently a survey was taken by a reporter asking "How much do you think campaign contributions influence politicians?" The unanimous was 100%. Mr. Antalics advised if you reviewed the Zoning Hearing Boards minutes for years after years, there is a procedure. A person owns a property or buys a property and wishes to change that property needs to go before the Zoning Hearing Board and pleads his case if he violates the zoning in place. The Zoning Hearing Board then decides what they will do about the request. He continued this is years of standard procedure in this City. But now, we have an invisible developer with no plan and we are talking about a rezoning. Mr. Antalics asked why has this standard

procedure over many years been reversed; what caused that and who caused that. If you look at this accurately there is only one Council person that voted against this proposal. Mr. Antalics remarked that Council person knows what we were saying is correct and he also knows what is best for the City. So please, follow standard procedure. He remarked get rid of this Ordinance. Do not even vote on it and go back to the way Bethlehem was run years and years ago. Mr. Antalics remarked that if the developer had come in with his plan before the Zoning Hearing Board and said he wants to do this because the present zoning does not fit what he needs, then after he goes to that Zoning Hearing, it then goes to Council to be either approved or disapproved regarding what the Zoning Board says. The best thing you can do for us is vote 7-0 against the Ordinance.

Brad Mulkern, a property owner on Main Street, stated he had two short questions. He cannot understand how a proposal that could take millions of dollars out of our existing businesses here in Bethlehem, and ship them to yet another big box super mall, has any intelligence. Mr. Mulkern remarked the answer comes up in one word that had been mentioned a few minutes ago and that is money. He cannot get an Ordinance changed to put faux slate tiles on his roof that does not affect anybody. It looks just like slate, and costs about 20% of what slate costs, but he is required to put slate on his roof. He continued he does it and does so because he respects and loves the Downtown Historic District. Mr. Mulkern does not want to see anything ruin it. He added, you are elected officials and you derived your right to govern from the agreement of the populous that you represent and that is the basic issue of democracy. He stated he is not asking you how to vote, but act democratically; act with responsibility to your citizens. There is not a single person here who has spoken up in favor of this proposal and yet you will make a vote behind closed doors to disregard the democratic voice of you constituents.

Clyde Thomas, 315 Hamilton Avenue, stated he is generally in favor of the rezoning of the Martin Tower property. He would say that the vote should be yes, unless there was compelling arguments against it, and there have been compelling arguments against the rezoning over the past few meetings. He does believe that we have to redevelop the property and it has to be a flexible Zoning Ordinance. Mr. Thomas stated however there are some things in the existing Ordinance that need to be looked at and thought about again. At this time he thinks that the vote should be no. He continued many of the arguments made are flawed and some have valid reasons to them. Mr. Thomas noted that many of the flawed arguments make it more difficult to actually say no, we cannot pass this Ordinance. Some of the arguments are about the 1.3 million square feet of retail that is allowable. Legitimately, if you look at zoning trends and what is going on in this nation, and what developers can do, there is no way we will get 1.3 million square feet of property developed for retail. Mr. Thomas added it is also not probable that we will get another Promenade in that property because those types of malls are not fashionable anymore. It is not the nationwide trend. We are also not going to get another Lehigh Valley Mall, because there are no big anchor stores out there that are willing to invest in a new mall. We will probably see some sort of hybrid big box and strip mall type of retail. Referencing what type of retail we could get at the Martin Tower site, Mr. Thomas knows that Walmart does not like their store on Linden Street because of the size. They would rather have a more expansive store with a food market also. If we had a Walmart put in there that would be the most damaging thing around because he cannot see good residential and commercial and office space in back of a Walmart store. However, if we had something like Whole Foods or a Trader Joe's that would be more desirable. Mr. Thomas remarked that we do not know what types of stores we will be getting at this site. There is a lot of fear and concern so there has to be some sort of clarity of what we want in that development. Another concern he has is in the Ordinance they have different uses and one of the uses that they do allow is pharmaceutical and medicine manufacturing, which he spoke of at the last meeting. Unless you restrict bulk chemical manufacturing from the pharmaceutical medicines you could have a serious environmental issue with that type of business. Not that he ever could believe we could attract a pharmaceutical manufacturing in this climate to come into Bethlehem, but it is in there as a use. Mr. Thomas thinks that should be excluded from the Ordinance. He thinks we need to do something because from a taxpayer point of view, it is irresponsible to not redevelop that. Mr. Thomas added that we need the taxes from that property because the silent majority out there just want to see their taxes either lower or not rise as high. He thinks we should revise this Ordinance to make it work the right way.

4. OLD BUSINESS.

A. Members of Council

None.

B. Tabled Items

None.

C. Unfinished Business

None.

5. COMMUNICATIONS

A. *Mayor – Request to Fill Vacancy – Community Health Nurse*

The Clerk read a memorandum dated October 28, 2015 from Mayor Robert J. Donchez requesting to fill the vacancy of the Community Health Nurse. The position is full time and the budget salary is \$58,500.

President Reynolds stated Resolution 9 C is on the agenda.

B. *Assistant City Solicitor – Gift of Real Estate*

The Clerk read a memorandum from Assistant City Solicitor Matthew Kloiber, Esq. Pursuant to Resolution 11,836 adopted May 25, 1993, it is recommended that the City accept the following gift of property. In accordance with Resolution 11,839, it is asked that this request be read into the record at tonight's City Council Meeting, and that the Council President refer the request to the Parks and Public Property Committee for study and recommendation. The property is located around 1830 Main Street. The legal description is contained in the Communication.

In 2014, the owners of the property had a survey done in connection with septic work being done on the property. The surveyor advised that the metes and bounds description of the property placed the property line in the middle of Main Street. In 2015 the property was put up for sale and the buyers asked that the deed description be amended. The appraised value of the property is \$151,400. The property being donated to the City is approximately 2,017 feet in size. The zoning designation of this particular parcel is RR. Surround properties are zoned RR and RS. There are no deed restrictions to the property. The proposed gift of the property should be accepted because it clarifies a title issue that had previously gone unnoticed. The property to be received is part of the roadbed of Main Street which the City has been maintaining for decades.

President Reynolds stated he will refer this to the Parks and Public Property Committee and the Resolution can be placed on the agenda following the Committee Meeting.

C. *City Solicitor – Intermunicipal Agreements – Shared Lane Markings Network*

The Clerk read a memorandum from City Solicitor William P. Leeson, Esq., attached to which are proposed Ordinances and associated Intermunicipal agreements for regional expansion of the Shared Lane Markings Network with the City of Bethlehem and the City of Easton and the City of Allentown, for Council's consideration.

President Reynolds stated the Ordinances will be placed on the November 17 agenda.

D. *City Solicitor – Use Permit Agreement – Christmas City Village*

The Clerk read a memorandum from City Solicitor William P. Leeson, Esq., attached to which is a proposed Resolution and Associated Use Permit Agreement for the Christmas City Village. The permittee is the Greater Lehigh Valley Chamber of Commerce by and through its Downtown Bethlehem Association. The duration of the agreement is November 20, 2015 through December 20, 2015. The location is Nevin Place (adjacent to the Sun Inn Courtyard) and Main Street from Broad Street to Church Street.

President Reynolds stated Resolution 9 D is on the agenda.

6. REPORTS

A. *President of Council*

B. *Mayor*

1. *Administrative Order – Charles Krenos – Electrician’s Examining Board*

Mayor Donchez appointed Charles Krenos to membership on the Electrician’s Examining Board. This appointment is effective until October, 2018. Mr. Stellato and Mr. Callahan sponsored Resolution 2015-262 to confirm the appointment.

Voting AYE: Mr. Callahan, Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 6. The Resolution passed.

7. ORDINANCES FOR FINAL READING

A. *Bill No. 38 – Zoning Text Amendment – OMU District – Martin Tower Site*

The Clerk read Bill No. 38 – 2015, Zoning Text Amendment – OMU District – Martin Tower Site, on Final Reading.

President Reynolds noted before he opens this up for discussion he would like to turn to the Administration if they want to make any comments on this Ordinance.

Mayor Donchez stated their previous comments stand.

President Reynolds then opened this up to discussion for any Member of City Council.

Mr. Evans thanked everyone for coming out to this meeting tonight. He noted a number of people have come to Town Hall a second and third time regarding this Ordinance. Mr. Evans noted some have talked about how this is being rushed but at the same time he wanted to point out that this has been on our plate since August. He expressed please be rest assured that a number of Council Members as well as the Administration have been at a number of meetings from Planning to the Public Hearing and meetings in between with merchants. In addition, we have been talking to neighbors and many others in our lives such as at church and ballgames. We have gone back and talked with the Administration. Mr. Evans remarked they will be talking about the budget in a few weeks and they will have six hearings where they will be talking about a \$72 million budget, which is something that is very important to the residents of this City. Almost any type of land development, whatever it is, no matter what part of town it is in, will fill the house. Mr. Evans thanked everyone for offering many different insights and in different areas of expertise. This has been difficult for him to get a gauge on because he has heard 50% in favor and 50% not in favor of the rezoning, but tonight he heard 100% not in favor by those in attendance. At the same time he is also convinced if we were talking about residential anyone concerned about retail would be exiting stage right, and enter stage left would be the people to fill the room to express their concerns about residential. Any time you take an area with the size of Martin Tower’s 53 acres that has been vacant and quiet for some time and activate it into some form, with or without the tower, it will fill this room. Mr. Evans mentioned that is not something that happens for many other topics that we all consider important in our everyday lives as residents, citizens and merchants in the City of Bethlehem.

Mr. Evans mentioned that at the last meeting on October 20th, he made a motion to send this proposal as it stands to the Community Development Committee. He thought it was important to talk about this more, but there was no support for this at that time. After the Motion to move it to Community Development Committee, there was a First Reading and it passed 6-1. He will note there were some Members of Council that had concerns. Those concerns were raised and that had to do with the percentages that now exist in this proposal. Mr. Evans mentioned the reason he was the no vote is that he had several concerns. His number one concern was the percentages. Number two was the concern about the exposure that we open ourselves up to if we approve it as is, and third, it was his desire to request or require a plan for the site that would provide something to look at and talk about. Mr. Evans would like to thank the Administration because it was a few days after the meeting when they

reached out to him, and noted that he had concerns on this as did other Council Members and said they would like to address those concerns and talk about them. Mr. Evans noted that he did meet with the Administration on Monday, October 26th. He met with Ms. Karner, Ms. Heller, and Mayor Donchez. Mr. Evans reported that the four of them talked about the concerns he had and concerns we heard at these meetings. This mostly focused around size and square footage and examples of what is out there and what we would want, how do we design this, and how could they take into account the concerns that Council seemed to have. Mr. Evans noted for a matter of perspective we talked about existing models in place on something that size. We talked about specific store sizes and we are all aware we cannot say what it will be. This is private property. We have to try to find a way to put a zone together that works for the City, for all of the residents; not just everyone in this room. Mr. Evans stated after that meeting came to an end they came up with some preliminary numbers. At that time he reached out to Ms. Reuscher and Mr. Stellato. President Reynolds reached out to other Members to see what will work and what we would be willing to add as amendments or send this to Committee. He asked President Reynolds because he did show concern for the percentages and as the President of Council that would be appropriate. At that time President Reynolds asked our Solicitor Jack Spirk to join us. The Sunshine Law does allow us to have three people get together with the Administration, and he asked for confirmation from Solicitor Spirk that that does not cross any lines. Mr. Evans thought it was important to talk about some potential amendments. He thought we should get to some type of numbers that would be acceptable to Members of Council that we can maybe get support for with an amendment. Mr. Evans informed that at the meeting we were able to develop some preliminary numbers and he agreed to reach out to Council to try to reach a consensus. It is very difficult to do but this was an attempt to try to come up with some numbers so we are not sitting here tonight and starting from zero. Mr. Evans added that we received feedback and had different ideas from the Administration and a number of Council Members in trying to get the City to agree on it. In speaking with residents throughout the neighborhood and at a Block Watch meeting, he sees a 50/50 support for the proposal. He does respect everything that was said tonight but they are trying to get a reading on what is best. One thing he wanted to mention, which is important to him, is that at that meeting he asked about a plan; he wanted to see a plan. He recalled at our last meeting on October 20th, Councilman Recchiuti and our Solicitor Jack Spirk were talking about Contract Zoning, which he was not familiar with. Mr. Evans stated he is familiar with Spot Zoning and because we talked about that in 2012, but Contract Zoning was new to him. He brought this up at the meeting on Monday and Wednesday with Solicitor Spirk to clarify the questions he had. Mr. Evans then asked Solicitor Spirk to confirm for him or better articulate what he understands to be Contract Zoning. It was at that meeting that he understood it to be that we cannot ask for a plan. He would like to see a plan but with Contract Zoning according to the law, we are not allowed to ask for a plan and then Zone either for or against it. To see the plan and then say here is what we are going to do around that plan is not appropriate.

Solicitor Spirk informed if you look at the minutes from the 2006 Council meeting where there were proposals about the Martin Tower property, Councilman Leeson suggested that we should table the matter, have the developer submit a plan, see what that looked like and then come back and make a decision on whether to change the Zoning. Solicitor Spirk believes it was Attorney Broughal at the time for the developer suggested that this is Contract Zoning and Zoning has to be in general terms for the good of the whole City. It cannot be that we will change the Zoning if you promise to build this or you specifically promise to do that. It is legislation. It is not a contract; it is not a deal with the developer. Rather it is legislation that covers the City for all time. It covers that Zone for all time. That is what we discussed and what he had mentioned in terms of being careful about attempting to get too specific in terms of negotiating with the developer. You will run afoul with the precepts of Contract Zoning.

Mr. Evans added that was a concern to him because it was brought up at the last meeting. He heard someone at tonight's meeting speak as well about seeing a plan, and then the suggestion to move the zoning around that plan.

Attorney Kaplin spoke from the audience and asked if that statement could be challenged.

President Reynolds informed that he would have an opportunity to speak at the second courtesy of the floor; this time is for Council to have the conversation.

Attorney Kaplin spoke from the audience again and asked if that would be after the vote.

President Reynolds informed there will be amendments being made but the second courtesy of the floor would be after the vote.

Attorney Kaplin stated yes, but you would have been well informed that recitation regarding Contract Zoning is wrong. He has litigated it.

President Reynolds informed he understands Attorney Kaplin has his opinions and we have received your materials as well, but this part of the meeting is the opportunity for Council to speak.

Attorney Kaplin stated he understands and respects that, but feels the definition of Contract Zoning is incorrect.

Mr. Evans expressed his concern to move forward without a plan and wanted to focus on a few other things that brought us to tonight. Number one, he wanted to be able to create some sort of amendment. He was concerned about the size, and the percentage; that was most important to him. The exposure of approving the Ordinance before any amendments were made was also very important to him. Mr. Evans stated his first goal was to create amendments to place parameters on the amount of retail use. That matter was important to him and he heard this from other Council Members. It was important to dial that back from the 1.3 million square feet number of retail space that we have been hearing about for three months. Mr. Evans added he thought it was important to move it to a square foot basis versus a percentage which became a concern through a question during the Public Hearing. Mr. Evans thought we should create amendments to control the character of the development. He believed that we are able to do this through amendments and eliminate the possibility of creating a third downtown. Mr. Evans added it was important to have the support of four Members of Council to add these amendments prior to the vote. These amendments made sense to control the size on that parcel. Mr. Evans confirmed his second focus was that the amendments be added before the final reading of the Ordinance. We are not going to approve the Ordinance tonight and then come back at a later date to present or create amendments. Mr. Evans stated with those priorities for him, that meeting ended and President Reynolds and he had the opportunity to reach out to different Members of Council.

President Reynolds just wanted to point out there are the concerns about the vote on the Ordinance, but he believes several amendments will be offered and any amendment that is passed by Council would then be referred back to the Planning Commissions. Any amendment that would be offered here would essentially start the process over again and there will be additional opportunities for Public Comment.

Mr. Evans stated there are five amendments. He listened and heard a great deal of testimonial over three meetings and those concerns were taken into consideration with the amendments. We all have different priorities on what we want to be able to do, how we think, and how we want to shape this Ordinance. That includes the City of Bethlehem residents; they have thoughts on this as well and he noted he also has talked to them about the Martin Tower property. He asked the City Clerk to prepare the amendments ahead of time and this was finished prior to the Council meeting tonight. Mr. Evans wanted to take them one at a time and explain them briefly and answer questions. He will make the motion and if there is a second they can have a debate and then vote on each of them.

President Reynolds mentioned to Mr. Evans this could be his prerogative, but as far as the discussion of the five amendments, he should talk about them and decide to make the motion or he could just relate his ideas to everyone. There could be general comments made and then allow other Members to make comments before the amendments come forth, and certainly anyone can offer up an amendment.

Mr. Evans advised he wanted to talk about amendment number one. His motion on the first amendment prepared deals with Section 2 in the Ordinance in Article 1303, Section 1303.07(n). This is to delete the last sentence "This District also is intended to encourage ground-floor retail and service uses to create connectivity between the residential and

commercial buildings on the overall tract.” Mr. Evans then asked for a second. Mr. Waldron seconded the motion.

President Reynolds mentioned this amendment is now open for discussion. Mr. Evans remarked the idea of this is that it reduces the vision that this needs to be or ought to be a downtown. One of the major concerns that we heard was that we do not want a third downtown and he thinks there is enough support on Council that we do not want a third downtown. He thought it was important to provide that. This sentence is intended to delete the idea that we want to encourage ground floor retail and in some ways reduces the obligation to build a multi-story that would replicate a lifestyle center like a Promenade or a downtown lifestyle development.

President Reynolds does think when we look at the comments at meetings, all of these fit under the idea that these things are not mutually exclusive. Many of the Smart Growth principles do run into the idea of creating more of a downtown, live, work, play atmosphere. He thinks that the overall goal here is to create a balance. We all know there is a difference of opinion on what that balance would be. President Reynolds added that all of City Council, Ms. Heller, Ms. Karner, Mayor Donchez, many of the merchants have different feelings on what that balance would be. He does think that when you look at these amendments, they are being offered as much to respond to much of the conversation that has occurred and as much as ideologically what people on City Council, the Administration or in the community would like to see. President Reynolds does think that is important going forward, because as some of these things might seem that they are going against certain principles that some people might individually support, it is the idea of trying to come up with a compromise that will try to encompass all of the different aspects of what we are hearing and concerned about. This is trying to find a finished product that people can get behind. President Reynolds stated it will not be a situation by which every aspect of the final product will make everyone happy, but he does think that the goal of this will address many of those fears.

Mr. Waldron noted Mr. Evans would like to take out that last sentence in order to alleviate some fears that we are creating a third downtown.

Mr. Evans stated yes. The sentence as worded was intended to encourage ground floor retail, and that leads him to believe that the developer or anyone else looking at this, there is almost an obligation to build a multi-story area where you have a ground floor retail with upper floor office, and/or residential. Mr. Evans informed he would like to move away from that vision.

Mr. Waldron advised he understands the fears of a third downtown but the one thing that makes him pause is eliminating the residential connectivity. He thinks the whole idea of this is to create a mixed use space where workers, shoppers, and residents can intermix and support one another. Mr. Waldron believes that it was the idea of the Smart Growth plan to create a vibrant community where all three can support each other. He guesses that was the intention of the plan as it came forward so we are at an impasse with what the Administration intended.

President Reynolds remarked if there was a plan that had a majority of residential, there would criticism of that as well. A plan such as this would appear to be taking away but when you look at this language it is the type of Smart Growth language. It is difficult to take away that language to address some fears without going in a direction that will make some people uncomfortable as to what the finished product will look like.

Mr. Recchiuti stated he agrees with Mr. Waldron’s assessment. He believes we are moving away from the Smart Growth concept. When he looks back at the Lehigh Valley Planning Commission’s letter, he thinks they liked the idea when they recommended approval of the mixed use flexibility that the Zoning Ordinance had. Mr. Recchiuti wonders if this would still be consistent if this is removed. Looking ahead we can see what the other proposed Amendments will be but will this still be consistent with the County Comprehensive Plan.

Ms. Heller stated yes, this would still be consistent with the County Comprehensive Plan. She still recommends dense and mixed use development in an urban setting in a parcel that has good access and transportation. She believes that they would still support this.

Mr. Recchiuti stated he is concerned that we make these Amendments and they might view our Amendments as not being very good ones.

Mr. Evans is asking for thoughts from Members of Council to delete the words "encourage ground-floor retail and service" from the sentence so that it will still say "This District is intended to create connectivity between the residential and commercial buildings on the overall tract." He asked if Council would be more comfortable with that.

Mr. Waldron stated he would be.

President Reynolds remarked the motion was made by Mr. Evans. A second is needed to amend the previously proposed Amendment. Mr. Waldron seconded that motion.

President Reynolds now opened discussion on the Amendment as it now reads and asked Mr. Evans to read the new proposed sentence.

Mr. Evans stated, "The District is intended to create connectivity between the residential and commercial buildings on the overall tract."

Mr. Callahan then had a question with that wording. He asked how that would change the amount of residential units that would go into that property. Every one of us, including the Mayor, has been over to see the neighbors in that area and when we try to make a decision. First we try to do what is best for the City as a whole. Number two, how does the surrounding neighborhood and businesses feel? Mr. Callahan noted that the Block Watch that meets at the Church of the Manger is probably the largest community group that meets. He grew up there in the Kaywin Avenue area. They are adamantly opposed to a lot of residential. They do not want the residential component, but the attendees tonight do. Mr. Callahan added that the Bethlehem School District and School Board does not want more residential. So it is our job to try to be fair to everybody. Mr. Callahan continued in trying to help the people that are here, by voting yes on this are we limiting the amount of residential units that will go into this tract.

President Reynolds does not believe that anything here addresses the percentages that he believes the Administration had added in reaction to some of the Planning Commissions concerns. He is not sure if Ms. Heller or Ms. Karner would like to add anything but nothing in this particular Amendment would change those percentage requirements that the Administration added after the original proposal went to the Planning Commission. There would still be the requirement of the individual percentages as it is currently. This purpose sentence would not necessarily affect any of those percentage requirements that currently call for a percentage of residential/commercial and retail.

Mr. Callahan related that by voting yes on this we are not limiting the amount of residential units that could go into this property. He does not want to do that. Obviously the people that showed up here for three nights want a more residential component. He queried if he is voting yes on this amendment, will he limit the amount of residential units that could go into that property?

Mr. Evans replied, no, this is just to connect the residential component with what could be or might be the commercial component.

Attorney Kaplin remarked this provision is in the preamble.

President Reynolds reiterated that Attorney Kaplin had his opportunity to speak at the beginning of the meeting. President Reynolds understands there are probably things that all of us disagree with from speakers but we cannot have people calling out in the middle of the meeting. As he said at the last meeting we have heard everything that people have said and saw the emails. We will vote on something and people will have an opportunity to speak about the Amendments that we are voting on. The Amendments then starts the process over and allows multiple opportunities, including tonight and then in the next coming weeks to weigh in on some of these Amendments and ideas. President Reynolds cannot imagine that there would be something voted on in its final form tonight. He added we cannot conduct a meeting with people calling out. People did have the opportunity to speak and can contact Council. This is the way the meeting has to be set up to maintain some type of decorum.

Mr. Callahan just wanted clarification on this. If we are voting yes on this, are we limiting the amount of residential units?

President Reynolds stated that is not the case.

President Reynolds mentioned before he calls for a vote on this Amendment, he just wanted to replay the process that was discussed before. Any Amendment made to this would be referred to the Planning Commission and the Lehigh Valley Planning Commission.

Attorney Spirk stated that is correct.

President Reynolds added that would take place before it comes back to City Council.

Mr. Waldron noted he thinks we are clear that the Amendments would go to the Planning Commission and the Lehigh Valley Planning Commission but where would the Ordinance be.

Attorney Spirk informed it would be like if you sent it to a Committee, such as it was here on First Reading and then you decided to send it to a Committee. You could call it floating. It would be until the Committee sends it back and then it would come for a final vote.

Mr. Waldron noted so we send the Amendments we are making tonight to the Planning Commissions and we would not be voting on the final Ordinance for Second Reading tonight.

Attorney Spirk replied that you could not have a vote on the Final Reading of the Ordinance tonight due to the amendments that are being made to amend the Ordinance.

President Reynolds stated to be clear we are voting on amending the original Amendment from Mr. Evans and asked the Clerk to read the Amendment as it is currently before us as amended.

Amendment 1 - Bill No. 38 - 2015

The Clerk read Amendment 1 to Bill No. 38, sponsored by Mr. Evans and Mr. Waldron, as follows:

SECTION 2. That Article 1303, CLASSIFICATION OF DISTRICTS, Section 1303.07, Purposes of Each District, Subsection (n), OMU Office Mixed Use District, of the Zoning Ordinance, as amended, which read as follows:

1303.07 Purposes of Each District.

- (n) OMU Office Mixed Use District - In addition to serving the purposes of the City Comprehensive Plan and the overall purposes of this Ordinance, this District is intended to promote redevelopment of areas of the City that are currently underutilized and are only partially developed. This District also recognizes that this area of Bethlehem is unique in terms of its size and its proximity to ramps of a limited access expressway (PA. Route 378). This District is also intended to provide transitional zoning provisions adjacent to a County Park and recognized historical site, the Burnside Plantation. ~~This District also is intended to encourage ground floor retail and service uses to create connectivity between the residential and commercial buildings on the overall tract.~~

Shall be amended to read as follows:

1303.07 Purposes of Each District.

- (n) OMU Office Mixed Use District - In addition to serving the purposes of the City Comprehensive Plan and the overall purposes of this Ordinance, this District is intended to promote redevelopment of areas of the City that are currently underutilized and are only partially developed. This District also recognizes that this area of Bethlehem is unique in terms of its size and its

proximity to ramps of a limited access expressway (PA. Route 378). This District is also intended to provide transitional zoning provisions adjacent to a County Park and recognized historical site, the Burnside Plantation. **This District also is intended to create connectivity between the residential and commercial buildings on the overall tract.**

Voting AYE: Mr. Callahan, Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 6. The amended Amendment passed 6-0.

Mr. Evans remarked that the second and third Amendments are housekeeping issues. These amendments came back as recommendations from the Lehigh Valley Planning Commission. The second Amendment in Section 4 of the Ordinance, Article 1305, Section 1305.01 (a) - Allowed Uses in Primarily Non-Residential Districts. In this one it talks about Group Home and it was checked as an N (Not Permitted) and there were legal concerns about that. Our Administration and our Solicitor agreed with that. Mr. Evans remarked in this motion, in the chart for allowed uses in the Primarily Non-Residential Zoning Districts it notes that a Group Home within a lawful existing dwelling unit, not including a Treatment Center shall be a permitted use in the OMU Zoning District. At this time it is listed as N, which means it is not a permitted use. Mr. Evans made the motion to turn that to a Y or a Yes under Permitted Uses. Mr. Waldron seconded the motion.

Amendment 2 – Bill No. 38 - 2015

SECTION 4. That the chart in Article 1305, ALLOWED USES IN PRIMARILY NON-RESIDENTIAL ZONING DISTRICTS, Section 1305.01, Allowed Uses in Primarily Non-Residential Districts, of the Zoning Ordinance, as amended, shall be amended as follows:

1305.01(a) a “Group home within a lawful existing dwelling unit (S. 1322), not including a treatment center” shall be a permitted use in the OMU Zoning District.

President Reynolds asked the Clerk to call the roll on the Amendment.

Voting AYE: Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 6.
Voting NAY: Mr. Callahan, 1. The Amendment passed 5-1.

Mr. Evans noted that the third Amendment is in Section 9 of the Ordinance and is also a housekeeping issue. The Lehigh Valley Planning Commission they had concerns with the spelling of the word “Principals”, so in Article 1311 Design Standards, the CL, CB, RT and OMU districts Section 1311.01 (g) Purposes, spelling the word “Principals” with “als” should be corrected to read “Principles”. His Motion is to make the change to the correct spelling of the word. Mr. Stellato seconded the motion.

President Reynolds reiterated that this is a housekeeping item that was refers to the recommendation that the Lehigh Valley Planning Commission had sent to us.

Amendment 3 – Bill No. 38 - 2015

SECTION 9. That Article 1311, DESIGN STANDARDS IN THE CL, CB, AND OMU DISTRICTS, Section 1311.01, Purposes, of the Zoning Ordinance, as amended, which currently reads as follows:

1311.01 Purposes.

- (a) Encourage appropriate redevelopment and reuse of underutilized sites.
- (b) Promote a mix of appropriate light business and residential uses in the same building.
- (c) Expand use of the public transit system and pedestrian and bicycle circulation.
- (d) Create opportunities to live, shop and work in the same area.
- (e) Improve the appearance of the City’s commercial corridors.
- (f) Attract new customers and new sources of employment and tax revenue.
- (g) Encourage ~~principals~~ of Smart Growth to promote compact mixed-use development.

Shall be amended to read as follows:

1311.01 Purposes.

- (a) Encourage appropriate redevelopment and reuse of underutilized sites.
- (b) Promote a mix of appropriate light business and residential uses in the same building.
- (c) Expand use of the public transit system and pedestrian and bicycle circulation.
- (d) Create opportunities to live, shop and work in the same area.
- (e) Improve the appearance of the City's commercial corridors.
- (f) Attract new customers and new sources of employment and tax revenue.
- (g) Encourage **principles** of Smart Growth to promote compact mixed-use development.

Voting AYE: Mr. Callahan, Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 6. The Amendment passed.

Mr. Evans informed his fourth Amendment is in Section 14 of the Ordinance, Article 1314, Additional Requirements for the OMU District. In Section 1314.01 (a) Purposes, this is essentially the same sentence as that in the first amendment tonight. Mr. Evans noted the motion is to reword the last sentence so it then reads "The District also is intended to create connectivity between the residential and commercial buildings on the overall tract." Mr. Evans stated that is his motion. Mr. Waldron seconded the motion.

President Reynolds noted that this is simply changing the Purposes in a different Section of the Ordinance.

Mr. Evans stated that is correct, but using the same language as the first amendment in Section 1303. It is the same language amendment; it just appears in a different Section for consistency.

Amendment 4 – Bill No. 38 - 2015

SECTION 14. That Article 1314, ADDITIONAL REQUIREMENTS FOR THE OMU DISTRICT, Section 1314.01(a), Purposes, of the Zoning Ordinance, as amended, which reads as follows:

1314.01 Purposes.

- (a) In addition to serving the purposes of the City Comprehensive Plan and the overall purposes of this Ordinance, this District is intended to promote redevelopment of areas of the City that are currently underutilized and are only partially developed. This District also recognizes that this area of Bethlehem is unique in terms of its size (over 50 acres) and its proximity to ramps of a limited access expressway (PA. Route 378). This District is also intended to provide transitional zoning provisions adjacent to a County Park and recognized historical site, the Burnside Plantation. ~~This District also is intended to encourage ground-floor retail and service uses to create connectivity between the residential and commercial buildings on the overall tract.~~

Shall be amended to read as follows:

1314.01 Purposes.

- (a) In addition to serving the purposes of the City Comprehensive Plan and the overall purposes of this Ordinance, this District is intended to promote redevelopment of areas of the City that are currently underutilized and are only partially developed. This District also recognizes that this area of Bethlehem is unique in terms of its size (over 50 acres) and its proximity to ramps of a limited access expressway (PA. Route 378). This District is also intended to provide transitional zoning provisions adjacent to a County Park and recognized historical site, the Burnside Plantation. **This District is also intended to create connectivity between the residential and commercial buildings on the overall tract.**

Voting AYE: Mr. Callahan, Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 6. The Amendment passed.

Mr. Evans continued with his fifth Amendment. This is in Section 14 of the Ordinance, the one that deals with the most discussion and the most concern. He goes back to his initial thought that it was important to work with Members of Council and try to come up with something that would work and could get approved. It is to dial back the amount of retail. As it was stated, we do not think to 1.3 million square feet of retail is appropriate. Mr. Evans also would like to make a motion that will be adding some limits for what he would like to define as small or medium size retail and that would be to address the concerns of the merchants on the north and south side so that we do not have a proliferation of a small retail component in this area as well.

In Article 1314, under Additional Requirements for the OMU District, Section 1314.02 (c), delete the subsection (c) that currently reads, " A maximum 300,000 square feet of new building footprint is permitted to be of one (1) habitable story design." Mr. Evans remarked that the numbers they talked about started somewhere between 200,000 and 400,000 square feet of retail. Right now it is 1.3 million square feet. He was also in a search for support at some point for around 325,000 square feet and he believes four Members of Council were willing to support that number. The difference between the 325,000 and the 400,000 is where it starts to get some traction as far as gathering consensus. If retail is 1.3 million square feet then 325,000 square feet would be 25% of that; 400,000 square feet is at 30% of total square footprint.

The other part was to handle, limit or prevent the ability to create a new downtown in this area, so there are two other parts to it amendment. That would be to limit small shops. He was comfortable with 3,000 square feet and then an allowance between 3,000 and 8,000 square feet. He put limits on those so it would prohibit the ability for a developer to come in and build some of those concerns we talked about at past meetings. Mr. Evans made the motion that the new Section 1314.02 (c) would read:

The following regulations shall apply for all retail, restaurant, and entertainment uses in the new buildings:

A maximum of 380,000 square feet of new building footprint is permitted for all primary retail/restaurant/entertainment uses. "Small-tenant" retail/restaurant/entertainment uses, or any such establishments with a tenant footprint of 3,000 square feet or less, shall not exceed 30,000 square feet of the total square footage of all primary retail/restaurant/entertainment uses. "Medium-tenant" retail/restaurant/entertainment uses consisting of a tenant footprint between 3,001 square feet and 8,000 square feet shall not exceed 35,000 square feet of the total square footage of all primary retail/restaurant/entertainment uses. Mr. Evans noted the numbers behind that the smaller divisions we are attempting to limit would equal a total of 65,000 or 5% of the current proposal of allowable use of 1.3 million square feet. Mr. Evans continued to say that retail, restaurant and other personal service uses shall be allowed as accessory uses in an office, medical office or residential building or complex provided they are accessory to the primary use and are primarily designed to serve the users of that building or complex. Such tenants shall not be included in the calculation of maximum square feet of new building footprint for retail/restaurant/entertainment as noted above in 1314.02(c)(1).

Mr. Evans remarked from the feedback he received and the goals he wanted to achieve, he believes there are four Members who agreed with this amendment. He thought that this was an Amendment that had an opportunity to limit size, and prevent the lifestyle center downtown that was a concern.

President Reynolds remarked that Mr. Evans' motion is on the table and he asked for a second to that motion. Mr. Waldron seconded the motion.

Mr. Callahan mentioned under item Section 1314.02(c) 2, we are looking at a maximum of 10 - 3,000 square foot units.

Ms. Karner noted she believes that is what is in Mr. Evans' proposal.

Mr. Callahan noted under Section 1314.02(c)3, a Medium-Tenant retail/restaurant/entertainment uses of 8,000 square feet, he wondered if he could have some examples of what that would be. He asked if that would be the size of a Petco store.

Ms. Karner stated for 8,000 square feet or less that would be a Five Below, or a Dollar General. They are less than 8,000 square feet.

Mr. Callahan queried about a restaurant.

Ms. Karner stated that would be a Panera.

Mr. Callahan asked what the square footage would be for that.

Ms. Karner stated about 8,000 square feet.

Mr. Callahan stated no one will come in and ask for a straight 5,000 square feet; it might be 5,200 or 5,350 square feet. He thinks what we are looking at is a total maximum of 8 stores at the a 5,000 square foot limit. He does not know if it is appropriate right now to ask to change Mr. Evans' Amendment from 35,000 square feet to 40,000 square feet of the total square footage.

President Reynolds stated he could make a motion and there would have to be a second and then discussion.

Mr. Callahan made the motion that the square footage in Section 1314.02(c) 3, be changed from 35,000 square feet to 40,000 square feet. Mr. Recchiuti seconded that motion.

Mr. Stellato queried if there is really a difference between 35,000 and 40,000 square feet.

Mr. Callahan stated he believes there is. If there is a tenant that comes in and asks for more than 5,000 square feet then they would have to come back and ask us for a variance. Mr. Callahan thinks coming down from 1.3 million square feet to 380,000 square feet is a huge compromise with listening to the merchants from downtown. He does not think it is unreasonable to think that 8 stores of that size could go in there.

Mr. Waldron noted the goal of this would be to expand to 40,000 square feet in order to get 10 stores in.

Mr. Callahan reported only 8 stores at 5,000 square feet, or it would be 7 stores if they are more than 5,000 square feet.

Mr. Waldron remarked that he thinks that 35,000 is too high. His general thought with many of these numbers is to start more conservatively and expand if need be based on development that is happening over the next decade. We do not know what type of development we will get, so to try to set numbers is a very difficult thing. Mr. Waldron added if we set them high, there is really nowhere to go, and if we set them low we still have some control about what goes in there and expanding where we need to. Mr. Waldron remarked to picture 8 medium sized box stores on that site would really change the whole dynamic of West Bethlehem. Mr. Waldron stated he would not support this motion.

Mr. Callahan informed this would not be a Lowe's type box store.

Mr. Evans stated he agrees. He will not speak for a Council Member who is not here but Ms. Reuscher is on the record from speaking last time how she feels about this. Mr. Evans was on the lower side himself with this square footage. He continued these numbers were not just pulled out of the air. He started with a number and when he felt what he had in place would get

the support that was where he stopped. Mr. Evans reiterated that the numbers he has here come after a number of discussions with the public and Council, and trying to arrive at a good number that everyone would be happy with.

Mr. Waldron added we are talking about very specific numbers. He noted he is not a Planner and no one else here is either. All of these numbers will be reviewed by two different Planning Commissions which gives him comfort, knowing that people who know more about Planning will take a look at this and give their thoughts.

Mr. Evans expressed he knows it would not be reasonable to say there would be 10 - 3,000 square foot stores. Some will be smaller and some might be larger but in the end there is a cumulative number that they cannot exceed 30,000 square feet of any building at 3,000 square feet or less. It is the same with 3,001 to 8,000 square feet. He does not think we can assume there will be five stores showing up, and each asking for the exact same amount. It is a total of 35,000 square feet, whether one would be 8,000, 7,000, 6,000 or 5,000 square feet; it would be in that range.

Mr. Callahan informed they just got these Amendments a few hours ago so there was not a lot of time to digest this. He thought there were discussions on putting an additional sentence in there, at the end about restaurants and personal services being between 3,001 square feet to 8,000 square feet shall not count towards the 20,000 square feet. Mr. Callahan heard it was going to be originally 20,000 square feet. He asked if that was correct.

President Reynolds stated this is Mr. Evans' Amendment, so he would refer to Mr. Evans on this.

Mr. Evans mentioned they talked about what the priorities were and he has put amendments together that will work and allow there to be a consensus on the limitations and what those limitations will look like. The maximum was always there. There was at one time a consensus beginning with when he talked with Ms. Reuscher and President Reynolds, and from there he talked to other Members of Council. We felt that 3,000 square feet was good and there was talk of not adding anything after 3,000 square feet, meaning there would be a limit on a 30,000 square foot footprint of 3,000 square feet or less, and everything else had to be bigger than 15,000 square feet. After we looked at different possibilities of what could or might be, President Reynolds had the concern that there is nothing that addresses the square footage in between in those numbers. The Administration mentioned that it could say that nothing was allowed, other than additional restaurants under 15,000 square feet between the 3,000 square feet and 15,000 square feet. Mr. Evans noted at that point he was not comfortable because that did not put a limit to how many restaurants and the type of restaurants. He was more comfortable with putting out a number to restrict and have firm numbers versus percentages or exemptions. We thought that one or two would be what the market would bear and show up in this type of area using samples and models from around the area, the Lehigh Valley and the State. Our thought was to give them a number to allow them to build a couple restaurants and put a limit on it, allow between 3,000 and 8,000 square feet and we would allow that 35,000 square foot footprint. There was a number of discussions about what was acceptable, whether it was lower, such as 20,000 square feet including restaurants, or 20,000 square feet not including restaurants, but we ended up with something that had a limit on it and ended up at 35,000 square feet, but it would be needed to include restaurants.

Mr. Callahan thought originally he had agreed to say 20,000 square feet with that sentence added at the end, and he asked if that is correct.

Mr. Evans noted there were a number of different variations.

President Reynolds remarked that when he and Mr. Evans had discussions about this and also by reaching out and asking Ms. Heller, Ms. Karner and the Administration about what type of development they see, and what is 5,000 square feet, what is 7,000 square feet, etc. at some point there was the concern if you did not allow anything between 3,000 square feet and 15,000 square feet, what would that mean if there was a use that made sense in the future. President Reynolds added that is when he and Mr. Evans talked about what the problem would be in not providing for uses between 3,000 square feet and 15,000 square feet. Then there was the thought about coming up with a square footage maximum for those in-between uses. At that point it was no longer necessary to have any exemptions for any of the larger 4,000, 5,000,

6,000 or 7,000 square foot type of restaurant/establishments that had been mentioned before that generally fit that square footage.

Mr. Callahan recalled that he was told by President Reynolds two hours ago that this sentence was going to be added and it was going to be kept at 20,000 square feet. Mr. Callahan stressed that he does not mind getting this about an hour before we walked in here, which does not give us a lot of time, but at the same time he was told it will be 20,000 square feet and that sentence was added, but it is now gone.

President Reynolds stated Mr. Callahan may make any type of Motions or Amendments that he would wish to do. He continued he talked to Mr. Evans and Mr. Evans mentioned some of the things he was thinking about proposing and I shared my thoughts with Mr. Evans as well. President Reynolds added that this also included conversations with the Administration. As he shared with Mr. Evans that the conversation about the 20,000 square feet with exemptions versus a higher number with no exceptions, was a number that he said he was more comfortable with as well.

Mr. Callahan noted the last conversation he had with President Reynolds, that he had with Mr. Evans, was that it was going to be 20,000 square feet, which Mr. Callahan said he was comfortable with. Mr. Callahan added that he was not comfortable with the 35,000 square feet.

President Reynolds reiterated that Mr. Callahan has the opportunity to make a motion to change whatever he would like to change or adjust there.

Mr. Callahan believes there is a motion on the floor.

President Reynolds noted the motion on the floor is to raise that 35,000 square feet to 40,000 feet. He asked if there is any more discussion before we call the roll on that motion to amend this and raise that 35,000 square feet to 40,000 square feet.

Voting AYE: Mr. Callahan, Mr. Recchiuti, 2. NAY: Mr. Evans, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 4. The Motion failed 2-4.

President Reynolds remarked they will go back to the motion that is on the table as far as the original proposal from Mr. Evans.

Solicitor Spirk replied that is correct. It was the last of the Amendments that Mr. Evans proposed; we are back to that now.

Mr. Recchiuti remarked what we are doing tonight is something that he thinks a lot of municipalities are trying not to do. We are zoning for big box stores. He emailed the amendments to a friend who has a degree in planning from the University of Pennsylvania and asked him to take a look at Amendments and share his thoughts. Mr. Recchiuti stated his friend said this is exactly what people do not want to do with their downtowns; with their cities. He said this is suburban sprawl and that is what you are zoning for.

Members of the audience began calling out and President Reynolds stated we need to allow Mr. Recchiuti to speak. President Reynolds stressed that Mr. Recchiuti has the floor. There was an opportunity to speak and there have been Amendments that were approved so everybody will have multiple opportunities to speak again in the future including the final courtesy of the floor tonight, before anything is voted on for the final reading. President Reynolds reiterated that it is very important for us to maintain decorum. Now Mr. Recchiuti has the floor and the opportunity to speak.

Mr. Recchiuti thinks the Administration proposed an Ordinance that really embraced what he would consider the principles of Smart Growth. Ms. Heller and Ms. Karner drafted that Ordinance and he thinks this would have been a really good development. We heard a lot of concerns and he thinks that Mr. Evans even touched on it. 100% of the people here tonight are against this, but we are getting a lot of other external concerns in the community too. Mr. Recchiuti heard 50/50 support for this Ordinance, and that is about right. Not everyone is here tonight and he understands that. Some are more vested in this than others, so they are more willing to come out on a Wednesday night and stay to listen to us talk about this and some people do not care about this as much. Mr. Recchiuti added what he would say is that we are

actually zoning to allow big box in our City to prevent this downtown and this will be suburban sprawl. This is a perfect Ordinance for Bethlehem Township because this is what they build. Mr. Recchiuti stated this is not a really good Ordinance for the City of Bethlehem, but he thinks we are in a situation where he does not know if we will get anything better than this right now. We are balancing the needs and desires of our downtowns with the needs and desires of the whole City. Our main duty as a City Council is to pass a budget and to make sure the money is spent. One of the things we will be doing in the next few weeks is talking about a budget, and one of the things we will talk about is real estate taxes and how we need to grow our tax base. This is a way we can grow our tax base. The Ordinance is not perfect; it is not the best thing, but at this point it is what he thinks will entirely balance the needs of the residents in West Bethlehem and the downtown. Mr. Recchiuti added if we go back to the drawing board someone will be in here next speaking against something that is not good. It could be the residents; it could be the School District. The School District held us up once before with the TIF that was proposed on this site over the concern of too many students. If we go too high on the residential we are upsetting the residents and if we go too high on the retail we are upsetting our downtown merchants. He thinks this strikes a happy balance. Mr. Recchiuti is concerned about the small tenant, medium tenant restrictions. He thinks that what we are zoning for is big box stores, which is what cities like Bethlehem are trying not to do. Mr. Recchiuti asked the Mayor if he has any comments on these Amendments because this is your Ordinance we are changing.

Mayor Donchez noted Council has his Ordinance before them and as he said two weeks ago the Administration certainly would work with City Council coming up with these Amendments and these are Mr. Evans Amendments.

Mr. Recchiuti stated he understands but was not sure if he had any comments. Mr. Recchiuti stressed he thinks his Ordinance was very good and this Ordinance is okay and right now this will be City Council's Ordinance.

Mr. Callahan added that he would like to make an Amendment to Mr. Evan's proposed Amendment. In Section 1314.02 (c) 3, he would like to lower the amount of square footage to 20,000 square feet of total square footage of all primary, retail, restaurant and entertainment uses with the sentence at the end "Restaurants and personal service uses of between 3,001 square feet and 8,000 square feet shall not count towards the 20,000 square feet limitation listed under item 3."

President Reynolds stated there is a Motion on the table but with no second the Motion dies.

Mr. Waldron queried if there was any consideration to a maximum of a single store.

Mr. Evans stated no. There was discussion of course as Mr. Recchiuti mentioned about the balance. We heard from the large number of stakeholders tonight. We talked about both a minimum size to drive it away from creating a downtown, but then the concern was also that we did not want to direct it exclusively towards the big box stores either. There was discussion but we did not come to a consensus on adding a minimum size required box store to keep it away from something like the Promenade, but there was not a consensus the other way either, so at the end of the day, no.

Mr. Waldron is not sure if there would be any support this evening to put a maximum on a single store, potentially 100,000 square feet. He made the motion to add to the Amendment to have a maximum square footage of 100,000 square feet for any single new building.

President Reynolds then asked for a second on that motion and with no second the motion died.

Mr. Waldron noted regarding the 380,000 square feet, he knows there was a lot of back and forth on the number and the feeling was that this was the lowest it could be to get the four votes this evening.

Mr. Evans remarked from the discussions and work he did that was the number that would allow him to gather the fourth vote.

Mr. Stellato remarked that is a heck of a reduction going down from 100% at one point to 29%. He feels that is more than fair and equitable. It is a compromise from all of us and it is time to make that change; there is nowhere else we can go with this. Mr. Stellato added from the bottom of his heart, he believes that is the way to go and he really does not think what is going to happen on Eighth Avenue will have that much of an affect on what will happen downtown.

Mr. Evans remarked that brings to completion the five Amendments that he has this evening.

President Reynolds remarked that we still need to vote for the fifth Amendment.

Amendment 5 – Bill No. 38 – 2015

SECTION 14. That Article 1314, ADDITIONAL REQUIREMENTS FOR THE OMU DISTRICT, Section 1314.02(c), of the Zoning Ordinance, as amended, which reads as follows:

- (c) ~~A maximum 300,000 square feet of new building footprint is permitted to be of one (1) habitable story design.~~

Shall be amended to read as follows:

- (c) The following regulations shall apply for all retail/restaurant/entertainment uses in new buildings:**
- 1. A maximum of 380,000 square feet of new building footprint is permitted for all primary retail/restaurant/entertainment uses.**
 - 2. “Small-tenant” retail/restaurant/entertainment uses, or any such establishments with a tenant footprint of 3,000 square feet or less, shall not exceed 30,000 square feet of the total square footage of all primary retail/restaurant/entertainment uses.**
 - 3. “Medium-tenant” retail/restaurant/entertainment uses consisting of a tenant footprint between 3,001 square feet and 8,000 square feet shall not exceed 35,000 square feet of the total square footage of all primary retail/restaurant/entertainment uses.**
 - 4. Retail, restaurant and other personal service uses shall be allowed as accessory uses in an office, medical office or residential building or complex provided they are accessory to the primary use and are primarily designed to serve the users of that building or complex. Such tenants shall not be included in the calculation of maximum square feet of new building footprint for retail/restaurant/entertainment as noted above in 1314.02(c)(1).**

Voting AYE: Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 5
Voting NAY: Mr. Callahan, 1. The Amendment passed 5-1.

Solicitor Spirk noted by his score card on the very first Amendment which was changing the purpose in Section 1303, Council voted one time to change the original wording so that essentially amended the Amendment, but it is his opinion that they need to vote to adopt that Amendment as amended, one more time on the final language.

Mr. Evans remarked that was the very first Amendment that was proposed that caused some confusion.

Solicitor Spirk stressed that Mr. Evans made the motion and got a second on that motion and then it was amended to change the language. Council voted to change the language but Council never voted to adopt it as amended. He believes that will be in order now. It has already been moved and seconded; it is just a matter of discussion and then calling the roll.

Amendment 1 - Bill No. 38 – 2015

The Clerk read Amendment 1 to Bill No. 38, sponsored by Mr. and Mr., as follows:

SECTION 2. That Article 1303, CLASSIFICATION OF DISTRICTS, Section 1303.07, Purposes of Each District, Subsection (n), OMU Office Mixed Use District, of the Zoning Ordinance, as amended, which read as follows:

1303.07 Purposes of Each District.

- (n) OMU Office Mixed Use District - In addition to serving the purposes of the City Comprehensive Plan and the overall purposes of this Ordinance, this District is intended to promote redevelopment of areas of the City that are currently underutilized and are only partially developed. This District also recognizes that this area of Bethlehem is unique in terms of its size and its proximity to ramps of a limited access expressway (PA. Route 378). This District is also intended to provide transitional zoning provisions adjacent to a County Park and recognized historical site, the Burnside Plantation. ~~This District also is intended to encourage ground floor retail and service uses to create connectivity between the residential and commercial buildings on the overall tract.~~

Shall be amended to read as follows:

1303.07 Purposes of Each District.

- (n) OMU Office Mixed Use District - In addition to serving the purposes of the City Comprehensive Plan and the overall purposes of this Ordinance, this District is intended to promote redevelopment of areas of the City that are currently underutilized and are only partially developed. This District also recognizes that this area of Bethlehem is unique in terms of its size and its proximity to ramps of a limited access expressway (PA. Route 378). This District is also intended to provide transitional zoning provisions adjacent to a County Park and recognized historical site, the Burnside Plantation. **This District also is intended to create connectivity between the residential and commercial buildings on the overall tract.**

Voting AYE: Mr. Callahan, Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 6. The Amendment as amended passed.

President Reynolds then noted at this time he would like Mr. Evans to state the process that he foresees regarding how these Amendments should proceed.

Mr. Evans reported that one of his questions was that we put a few Amendments in here for the restrictions that we talked about and also put them in place before the final vote on the Ordinance. He asked Solicitor Spirk to confirm that there would be no vote now on the Amendments as proposed. Those Amendments stand and will now move to the Planning Commission and to the Lehigh Valley Planning Commission, which will each have 30 days to respond with recommendations.

Solicitor Spirk stated that is correct.

Mr. Evans noted when we finish this discussion on this Ordinance it will go to the Planning Commissions. There is a meeting scheduled for next Thursday for the City Planning Commission. There is one the second Thursday of every month at 4:00 p.m. This will travel to that meeting of the Planning Commission next Thursday. Mr. Evans reported after that it will return from the Lehigh Valley Planning Commission and the City Planning Commission with comments and recommendations. We would then be required to have a Public Hearing, followed by the final vote, which would be the Second Reading of the Ordinance.

Solicitor Spirk pointed out that is correct. The Planning Commissions have 30 days to review this. There would be a Public Hearing scheduled to take place after 30 days period

expires and then it would come back to Council for the final vote, which would be the Second Reading of the Ordinance.

Mr. Waldron queried which Council Meeting that would be.

President Reynolds remarked that we would have to schedule a new Public Hearing and it might be best to have a stand-alone Public Hearing; not on the night of a Council Meeting. President Reynolds stated when he looked at our Budget Hearings schedule he believes that the best day that works would probably be December 8th because that would allow for the 30 days to review and also would not interfere with our Budget Hearings.

Mr. Waldron asked when the Second Reading would take place.

President Reynolds informed the Second Reading on the Ordinance as amended could be at the final Council Meeting of the year on December 15, 2015.

Mr. Evans asked for the day of the week on December 8.

President Reynolds stated it is a Tuesday, and Ms. Reuscher would be here also. He noted she has some type of family emergency and could not be here tonight.

President Reynolds informed they will refer these Amendments to the Bethlehem Planning Commission and the Lehigh Valley Planning Commission. He reiterated that it seems that December 8th would be the best day which would allow the 30 days for the Planning Commissions to respond. President Reynolds stated he would accept a motion and a second to schedule a Public Hearing Tuesday, December 8th at 7 p.m. in Town Hall.

Mr. Evans made the motion and Mr. Waldron seconded the motion.

Voting AYE: Mr. Callahan, Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 6. The Motion passed.

President Reynolds stated there will be a Public Hearing on Tuesday, December 8, 2015 at 7:00 p.m. in Town Hall on the Amendments after they come back with comments from the Planning Commission and the Lehigh Valley Planning Commission.

Mr. Evans offered to attend the Planning Commission meeting since the Amendments are coming from Council. He would be there not to speak on behalf of Council, but to answer questions they may have. Mr. Evans is asking the Administration if they would alert him once the date is set or if it is changed so he could be at those meetings to answer any questions.

President Reynolds remarked since there were Amendments there would be no Final vote on the Zoning Ordinance that is before us tonight.

8. NEW ORDINANCES

None.

9. RESOLUTIONS

A. *Approving 2016 CDBG and HOME Programs.*

Mr. Stellato and Mr. Callahan sponsored Resolution 2015-263 that approves the Action Plan for FY 2016 for the City of Bethlehem for the period from January 1, 2016 to December 31, 2016 to provide necessary assurances and certification to the U. S. Department of Housing and Urban Development and to submit the FY 2016 Action Plan for HUD approval.

Voting AYE: Mr. Callahan, Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 6. The Resolution passed.

B. *Approving Facility Rental for Special Event Fees*

Mr. Stellato and Mr. Callahan sponsored Resolution 2015-264 that authorized the Illick's Mill fee to be added to the Facility Rental for Special Events Fee and the Ice House Rental Fee

for Private Non-Resident use decreased to \$450 in the Facility Rental for Special Events Fee and the rates for the Illick's Mill Facility be effective beginning November 4, 2015.

Voting AYE: Mr. Callahan, Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 6. The Resolution passed.

C. *Approval to Fill Vacancy – Community Health Nurse*

Mr. Stellato and Mr. Callahan sponsored Resolution 2015-265 that approves the filling of the position of Community Health Nurse Practitioner.

Voting AYE: Mr. Callahan, Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 6. The Resolution passed.

D. *Authorizing Use Permit Agreement for Public Property – Greater Lehigh Valley Chamber of Commerce – Christmas City Village*

Mr. Stellato and Mr. Callahan sponsored Resolution 2015-266 that authorized the execution of a Use Permit Agreement between the City of Bethlehem and the Greater Lehigh Valley Chamber of Commerce, by and through its Downtown Bethlehem Association for use of Nevin Place (adjacent to the Sun Inn Courtyard) and Main Street from Broad Street to Church Street for the Christmas City Village for the time period November 20, 2015 through December 20, 2015, according to the Agreement.

Voting AYE: Mr. Callahan, Mr. Evans, Mr. Recchiuti, Mr. Stellato, Mr. Waldron, and Mr. Reynolds, 6. The Resolution passed.

10. NEW BUSINESS

2016 Budget Hearing Schedule

President Reynolds informed he does encourage everyone to come out to the budget hearings. This is an opportunity to hear a lot of the issue that the City is going through and how they fit into many of these things that we end up talking about.

President Reynolds announced the 2016 Budget Hearing Schedule, as follows:

November 11 - 7:00 PM – Town Hall
First Budget Hearing:
Administration
General Fund Revenue
General Fund Expenditures
General Fund Expenses
Debt Service
Civic Expenses
Council, Mayor, Treasurer, Controller, Law Bureau
Community Development Block Grant
Community and Economic Development Department

November 12 - 6:00 PM - Town Hall
Second Budget Hearing:
Fire Department
Police Department
911 Fund

Tuesday, November 17, 2015 – 7:00 PM - Town Hall
City Council Meeting
First Reading of 2016 Budget Ordinances

November 19, 2015 - 6:00 PM - Town Hall
Third Budget Hearing:
Parks and Public Property Department
Golf Course Enterprise Fund

Public Works Department
Liquid Fuels Fund
Non-Utility Capital Fund

November 23, 2015 – 6:00 PM - Town Hall
Fourth Budget Hearing:
Water Fund Revenue and Expenses
Water Capital Budget
Sewer Fund Revenue and Expenses
Sewer Capital Budget

December 3 – 6:00 PM – Town Hall
Final Budget Meeting

Tuesday, December 15, 2015 – 7:00 PM – Town Hall
City Council Meeting
Final Reading of 2016 Budget Ordinances

President Reynolds noted that this information is probably up on the City's website, and if not it certainly be on tomorrow.

11. PUBLIC COMMENT

Elias Market Concerns

Yong Hao, 3218 Marchant Drive, informed he is at this meeting today to thank the Mayor and his staff for meeting with him on October 13th for his concerns about the Zoning Hearing Board and how they conduct their business, and how they treat the citizens. On September 16th, the Zoning Hearing Board conducted a hearing on Elias Market. They have two new violations issued by the Zoning Officer on May 7th and May 11th for their paving on the east side of their newly built warehouse. Mr. Hao noted that after the Zoning Officer issued a violation, they actually pleaded guilty in District Court for paving without a permit. However, they keep conducting retail business. They sell flowers, plants and the store has merchandise and that is with illegally paved properties since April, 2014. Mr. Hao mentioned when the Zoning Hearing Board conducted a meeting on September 16th, the Chairman first announced the procedures of how the proceeding will go that night. He said, first the City presents their case, and Elias Market, their Attorney presents their case and then the public has the chance to ask questions. After questions from both sides they would then have closing argument; then the public will make comments. Mr. Hao remarked that people signed up to speak and after the counsel for Elias Market and the Attorney for the City made closing arguments, the Zoning Hearing Board said they would have a break, a recess. When they came back they made and announced their final decision. They never asked the public to speak. On that night, we brought a lot of evidence which is very damaging to Elias's Market case. They know it and they did that on purpose. They did not give us a chance to present those records and evidence, which is controversial and would be damaging to their case. Mr. Hao stated the Zoning Hearing Board are totally on Elias Markets side and he wishes the Zoning Hearing Board would be just like City Council today. They are letting people speak; even people who did not sign up could speak tonight. Mr. Hao reported that the Zoning Hearing Board never even did that. Mr. Hao is asking the City to appeal that decision. Secondly, the evidence presented by the City is incorrect. They never gave us a chance to communicate to present that evidence so the City can use this to build their case. The Zoning Hearing Officer did not on that night even they know when the asphalt was paved and she said maybe November, 2014. She did not have the basic evidence to come to the people to present the evidence. He continued that is why he wants the City to appeal this so we can have a democratic process to let both sides present evidence. Mr. Hao remarked that Elias Market got approved for their new warehouse of 8,000 square feet, which in our backyard. Someone talked about 8,000 square feet tonight regarding Martin Tower. The size of the warehouse at Elias Market is over 8,000 square feet. We cannot sleep in our bedroom so that is another reason he wants the City to appeal this decision.

Sue Fang, 3218 Marchant Drive, remarked that Elias Market is a non-conforming use in a Residential District and they had a variance and special exception to build a commercial warehouse and loading dock which is close to her home. Ms. Fang noted that the past is done. The Zoning Hearing Board made a decision with eight conditions specifically saying they need

to have no idling on the trucks, they cannot enlarge retail, and the auto mechanicals have to be on the Linden Street side. When Elias Markets built this warehouse they totally disregarded these conditions. They are putting all of the utilities right next to the neighborhood, so we can hear all of this and then in April, 2014 they paved an additional 4,000 square feet without a new permit. They then expanded their external retail business and that is an enlargement and a violation of a zoning condition. Ms. Fang stated they talked to the Zoning Officer and she has given them five violation notices. One time the violation notice was not done correctly and next thing is there is something else and it is never is done right. These are the Zoning conditions that they passed, support and enforce, which they neglected to do. Now they enlarged the external retail. Ms. Fang added that they also are getting permission from the Zoning Officer to reconfigure the internal retail adding so many square feet, as in thousands of retail, which is another violation. She wants to be clear that Elias got what they got. We got the Zoning condition to protect us, but the Zoning Hearing Board members voted and disregarded us and did not let us say anything and the Zoning Officer went to present the case. They just passed it so that means that legally they let them do whatever they want to do. Ms. Fang pointed out that Mr. Piperato represents Elias Market and said that property is 100% operating commercial so we can conduct business on every inch of their property. Her point is that Council represents the City and she is thinking there is a non-conforming use and that has a special section in the Zoning Ordinance, Article 1323, whatever they are using had to have a maximum limit. They have already reached about 360% limit so they need a variance or special exception. Ms. Fang noted right now the Zoning Hearing Board refuses to enforce even the condition they gave to them. They want to use every piece of their property for commercial and pave it but she thinks that is unfair. Ms. Fang asked if Council could please understand her point of view. She continued you represent us so please help us appeal for this situation because they just feel like they are being blindfolded because they just do whatever they want to do. Ms. Fang added they talked to the Mayor and she does not know what to do next. They are asking for help.

Martin Tower Ordinance

Attorney Marc Kaplin, Blue Bell, remarked that they worked very hard within a short period of time to analyze the City's Ordinances. We addressed your Preservation Plan, and we addressed your Zoning Ordinance provisions regarding Historic Preservation. He stated that they concluded and said in the letter that the owners of this property will still have to go through the procedures in your Historic Ordinance to justify tearing down the building. Attorney Kaplin queried if anyone looked at that, did anyone see it and he asked if the Solicitor looked at it.

Solicitor Spirk stated he chooses not to respond.

Attorney Kaplin stated it is very nice that you passed whatever Amendments you did Mr. Evans, but you did not look at the fundamental issue as he sees it, and as many of his clients see it. That is this rush to tear down the building. There is another set of facts that are laid out in our letter that could have dire consequences for the City. Attorney Kaplin added that the CRIZ was obtained based upon a plan that you submitted. It said the building was going to stay and that the development would comply with the existing Ordinance and it attached a plan. He continued to say that he just does not understand how you can sit here and talk about passing this Ordinance without at least addressing the legitimate comments that we have made. Attorney Kaplin queried if there is any concern that the change of the plan will affect the validity of the CRIZ.

President Reynolds stated this is the public's opportunity to speak.

Attorney Kaplin understands this is his opportunity to speak but it is also your opportunity or your duty as public officials to justify or respond, or tell him he is all wrong or tell his clients, who are your citizens, that their lawyer does not know what he is talking about. Attorney Kaplin asked why do you have to rush now, six weeks before your term ends, to ostensibly allow the owners of this building to tear it down by changing the zoning, when the Historic Preservation Ordinance is still in effect. It would require extensive hearings before the Historic Commission and the owners will have a very high burden of proof to prove what they have done to use the property economically. Attorney Kaplin reported this is all in his letter but he wonders why Council is continuing to push this through without even addressing that, without even addressing the affect on the CRIZ. Attorney Kaplin guesses he is wasting his time.

Bruce Haines, 63 West Church Street, stated that Attorney Kaplin now knows why we have frustration with City government here in Bethlehem. They speak to themselves, we speak to ourselves, and there is never any dialogue in between. That is the bottom line and the way it has always been at these meetings which is very frustrating. Mr. Haines stated he is trying to understand and asked if they could get a copy of the Amendments tonight. He heard many numbers tonight but he wonders what the number is. Mr. Haines asked for clarification if it is 380,000 square feet or is it 325,000 square feet plus 35,000 and 30,000.

President Reynolds reported the 380,000 number would include the 65,000 so it would be 315,000 plus. If all 65,000 square feet of it were to be used 65,000 plus 315,000 would be 380,000 square feet.

Mr. Haines asked if the 325,000 number that he heard is really not the right number; it is 315,000 although he never heard the 315,000 number. He heard 325,000 and then he heard 30,000 and then 35,000 and then 380,000.

Mr. Evans noted that was not part of the motion. He was explaining the deliberations wherever we were with numbers from beginning to end.

Mr. Haines remarked you said 315,000 plus 30,000 plus 35,000 and that is what was approved and what is going to the Planning Commissions.

President Reynolds reported that is correct.

Mr. Haines stated the 380,000 square feet is the size of our downtown right now, but we are not trying to create a third downtown. Mr. Haines informed he is the one who coined the phrase "third downtown" and probably should retract that. It was just an anachronism to kind of talk about what they are concerned about. He continued what we are really concerned about is a new tax subsidized retail destination. Mr. Haines added that Corked was offered \$1 million to build out in Allentown plus a lower rent and noted the same thing can happen here. Corked could not move there but some other steak or seafood place could move there. Mr. Haines remarked that Corked would be done. When he thinks about it he does not know if he will be open other than weekends because of the 14 new restaurants in Allentown that are tax subsidized. If you do not think that Main Street is being impacted by a tax subsidized thing, then you have your head in the sand. It is one thing to be blindsided by Allentown, but to be blindsided by our own Administration, this is beyond his wildest imagination and you guys are continuing to foster that. Mr. Haines pointed out at the end of the day, we have a wonderfully zoned piece of property with 50,000 square feet of retail. 50,000 square feet of retail would not interfere with downtown Bethlehem. Mr. Haines wanted to clarify that we are not asking for more residential, in fact, he thinks this should be an office park and the way it is zoned it could be an office park. There does not have to be any residential, but he thinks that residential does make sense on the back part of an office park. Mr. Haines noted that it could be 70% office park; 25% residential. That would not interrupt the schools, plus it could be senior housing or apartments. So there is nothing wrong with the current zoning, you just have to find a way to find a new owner to come in and develop it to the zoning that is there.

Mr. Callahan queried if he could address a few issues.

President Reynolds reported he does not want to get into a back and forth discussion. He added that Mr. Haines certainly made his point and he could talk to Mr. Callahan after the meeting. President Reynolds remarked that like before, he wanted to give the people here tonight an opportunity to speak, but if Mr. Callahan would like to make a quick statement, he is certainly able to, but he would try to discourage the same process we were trying to stop from happening before.

Mr. Callahan noted that everyone would like to see something in there that makes everyone happy. If there was a market for office space, the developer would do that. We have lost Morgan Stanley and whether this CRIZ goes through or not, we cannot stick our heads in the sand and say the NIZ is not there. Mr. Callahan pointed out that there was an article yesterday in the newspaper as to which is the better town now. He continued that question three years ago would have been unthinkable. The fact is that Allentown has an economic tool

and that is five miles away. They have built or are building 4 million square feet of office space. Mr. Callahan pointed out that Mr. Haines is a smart business man and runs a great business and he has told him on many occasions. He referenced Morgan Stanley that had been in Bethlehem for 15 years and moved to Allentown because they obtained a brand new Class A office space at one third the cost with more square footage. Why did they go over there and why would not any business model follow that. Mr. Callahan asked why did Moravian Book Shop go to Allentown and open another store. They planned a year and a half ago to open a store in Allentown, which is long before this whole discussion about the CRIZ and Martin Tower came up. He noted the Brew Works moved to Allentown in 2011. Mr. Callahan wishes Mr. Fegley was here because at the last meeting he brought up tax free or government assisted development. Mr. Callahan does not know how many employees Mr. Fegley has at the Brew Works. It is not two, but in 2011 according to our taxing authority, he now has two employees that work in the Bethlehem Brew Works and everyone else is getting their payroll out of Allentown. Why would someone want to do that? Mr. Callahan remarked he does not know, but maybe because the owner of that property gets all that State tax. His point is that if we do not do anything with the CRIZ, and if Martin Tower does not exist, we are in trouble. Mr. Callahan remarked if you do not acknowledge that, then you are not living in the present. The NIZ is a powerful tool. He continued, you have analyzed this more than anybody and you are a smart business man. He remarked, are we supposed to let everyone go to Allentown. The Moravian Book Shop and the Brew Works went over there long before this discussion. Do we just sit here and let everybody leave and our tax base erode? Mr. Callahan pointed out he has had these discussions with Mr. Haines and Mr. and Mrs. Holt way before our public meeting. He has also had discussions with Neville Gardner. Mr. Callahan pointed out that he lives on Main Street. He is invested there and if Main Street goes down so does his property value. Mr. Callahan stated he is trying to do what is best for downtown and West Bethlehem residents, because they are as mad about this as everyone else if it flips the other way. As one of us said, if it is all residential and commercial, the attendees tonight would leave the meeting and those concerned about a high residential component will be coming in the other side of the door. That is a fact of the matter.

Mr. Haines stated they are not asking for more residential, that is his point.

Mr. Callahan stated he would be happy to talk to Mr. Haines.

President Reynolds thanked Mr. Callahan and Mr. Haines and expressed that this certainly is a passionate issue. One of the things we heard over the past several weeks and months is the opportunity for that dialogue to continue. As we said before, there certainly is an opportunity in the coming weeks to extend that conversation.

Stephen Antalics, 737 Ridge Street, noted that he is trained as a scientist. He is not a bad one but we use logic in science and facts. He brought this up four or five times in the past and he still does not get it. Mr. Antalics mentioned he is trying to think this through and it is beyond him. The person who put his finger on the problem, the gentleman sitting behind that table is that he would have liked to have seen a plan from the developer. Mr. Antalics has asked this many times and this is something you people should be asking. He said during the first courtesy of the floor that he thinks the gentleman has his finger on the problem but the other six are not listening to what he had to say then. Mr. Antalics stated he has heard some really intelligent dissertations from the last meeting and this meeting. He remarked that no one is listening to these intelligent people. The developer's interest is to make money anyway possible, either through the TIF or the CRIZ, and he is not even in the City. Mr. Antalics noted that the people behind him also have a vested interest. They love and care about the City of Bethlehem. They speak from their hearts but no one is listening to them. Mr. Antalics remarked that Council is fine tuning this down to the tenth decimal place without knowing what the plan is for the property. Mr. Antalics stated he has seen many governments operate but he has never seen this procedure happen before. He said this should go down in history. Council is setting a precedent here. Mr. Antalics referenced the gentleman who spoke about the marriage, which he thought was a classical analogy. He remarked our power is in the polls. Mr. Antalics stated he is sure the people behind him will have a long memory and they will voice their memory during election time when they get in that election box.

Dana Grubb, 2420 Henderson Place, stated he listened to some of the comments being made tonight and he thinks no one really knows what the impact will be on our central business district, but as your central business district goes, so goes your City. He thinks that is

something you need to consider very importantly. Mr. Grubb informed if you take a look at Allentown, it was like little New York City, and look what it became when it had all the competition our around it. He continued, look at Detroit and major cities all across this Country and issues they had to deal with. Mr. Grubb stated Filene's Department Store in Boston does not even exist in the downtown anymore. Mr. Grubb pointed out that Mr. Haines may have hit on something. Maybe this property does need another owner. If LVIP had that property, it would have been built out years ago and every building would be occupied today. Mr. Grubb remarked that you are worried about the tax base. It is not just about real estate taxes. Create a downtown that drives more mercantile tax, more EIT, hire more City residents in City government and you then get to keep the EIT. Mr. Grubb noted that 10 years ago Al Hoppy, informed the Council at that time that the City was losing \$150,000 a year in EIT because of non-City residents working in City Hall. Mr. Grubb remarked to expand the tax base, hire Bethlehem residents. Expand the tax base, and limit the number of cars that are going home with City employees so that all the phone calls he receives about the City employees who stop at the beer distributor, tow their personal boat, run their kids around to youth sports with a City vehicle, does not happen. Mr. Grubb pointed out that we are paying for that and so are you as taxpayers. He continued referencing the Business Administrator using his City vehicle for his business on the side. Put stop to that and grow the tax base. The approach about growing a tax base is not solely based on economic development. It is based on commonsense and controlling costs. Mr. Grubb noted the Administration should work a little harder at that. It is very frustrating, since he worked at City Hall for 27 years. First you see it decline in City services from the way it was when 100% of the workers actually lived in the City and had a connection to the City and cared about the City. He recommended getting innovative regarding residential at the Martin Tower site. He has leaked so many of these stories on his Facebook page and the number one suggestion that comes back is how about an over 55 housing development. They are booming everywhere else but in Bethlehem. It does not all have to be family housing; there are different ways to go about it.

Town Hall Electric Doors, Martin Tower Ordinance

Martin Romeril, 26 West Market Street, wanted to point out that the Town Hall electric door does not work. He remarked there could have been 10,000 people in wheelchairs lined up to get into this building and they could not get in because they could not open the doors. So he hopes that someone looks at that.

President Reynolds remarked they will have someone in the Administration look at that.

Mr. Romeril remarked he is sure we paid for the ramp and we paid for the motor and the buttons and it does not work. He added that his father tried to use it tonight and could not. Mr. Romeril just wanted to reiterate something that his father said at the end of his comments. Many of the people say we have to change, we have to tear down this building, and it is a horrible building and horrible people worked there. He just wanted to say proceeding from hate, for what they perceive the building represents is not a good way to plan for our City's future. Mr. Romeril added that a lot of honest, hard-working people worked for years in that building. They were not Vice-Presidents and they were not overpaid. The things they did with their blue pencils and their large white sheets of paper allowed tens of thousands of unionized steel workers across the United States to earn a living wage, build families, and put their kids through colleges. People will say that building represents the excess of this or that, but that is a bunch of garbage. They do not know about the people who worked in that building and did great things in our community. Mr. Romeril stated that building was filled with our neighbors; people who lived here and paid taxes in our City and belonged to other institutions in the City. Mr. Romeril thinks we should not talk about that building in such bad terms. He meets few people who want to tear down that building who have something nice to say about it. He still hopes that despite any amendments that were passed that the whole thing goes down in flames because he does not think this is a good idea and he does not think it was thought out. Mr. Romeril noted that the developers made promises once, twice, and three times. Let them sell it to someone else who will do something with it. He does not think they should get extra value by making these changes just so they can make a profit. That is unfair and is not considerate to all of the people who still live here. The developers do not live here; they do not care about the community.

12. ADJOURNMENT

The meeting was adjourned at 12:00 a.m.

ATTEST:

City Clerk