

BETHLEHEM CITY COUNCIL MEETING
10 East Church Street - Town Hall
Bethlehem, Pennsylvania
Tuesday, November 20, 2018 - 7:00 PM

INVOCATION

President Waldron asked for a moment of silence in which we can reflect on the season of Thanksgiving and the folks that we are assembled with today which we may or may not agree with but at least have the opportunity to speak and be respectful and hear each other out.

PLEDGE TO THE FLAG

1. ROLL CALL

President Waldron called the meeting to order. Present were Bryan G. Callahan, Michael G. Colón, J. William Reynolds, Paige Van Wirt, and Adam R. Waldron, 5. Shawn M. Martell and Olga Negrón were absent, 2.

PUBLIC HEARING

President Waldron stated prior to the consideration of the regular Agenda items; City Council will conduct a Public Hearing to accept public comment concerning a privately proposed Amendment to Section 1304.04 of the Zoning Ordinance, titles Reuse of Corner Commercial Uses Allowed in the RT and RG Districts.

President Waldron called the Public Hearing to order.

Communication 6 A - City Planning Commission - Zoning Text Amendment - Petition of Morning Star Partners, LLC

The Clerk read a memorandum from Darlene Heller, Director of Planning and Zoning to which is attached a memo to the Planning Commission and a revised map showing the current uses of the immediate vicinity of 2 West Market Street, the property owned by Morning Star Partners LLC. At the November 8, 2018 Planning Commission Meeting, the Commission voted 2 to 2 whether to recommend approval of the petition of Morning Start Partners LLC for a Zoning Ordinance text amendment that is proposed to amend Section 1304.04 - Reuse of Corner Commercial Uses Allowed in the RT and RG Zoning Districts.

Communication 6 B - Lehigh Valley Planning Commission - Zoning Ordinance Amendment - Reuse Corner Commercial Lots - City of Bethlehem, Northampton County

The Clerk read a communication from John von Kerczek, Principal Community Planner of the Lehigh Valley Planning Commission to Darlene Heller, Planning Director. The Lehigh Valley Planning Commission Comprehensive Planning Committee reviewed the proposed Zoning Ordinance at its October 23, 2018 meeting. The proposed amendment addresses a matter of local concern.

Attorney James Preston representing Morning Start Partners, LLC began his presentation. He noted we do have before you what is a private petition for a zoning amendment which is a little unusual in that it is a private petition. It has been out there for some time now; we filed this more than a month ago. We have been to the Planning Commission and had the opportunity as we visited with them to hear comments both for and against the proposal. That gives him the opportunity this evening to address some of those in anticipation of what he will believe will be some of the comments you will hear. Attorney Preston pointed out with the amendment itself, it is a request for a text amendment, it does not rezone and the property does not change any colors on the map. What it does is it amends the text of the zoning ordinance in a very specific way. In the existing ordinance there is a section that is identified as Section 1304.04 and that exists there today. What that section does is it allows for a special exception use and it allows for a special exception use only in the RT and RG zoning districts. There are certain criteria you need to qualify for this special exception use. In particular it says the lots shall be at the corner of two streets. The primary building shall have an existing storefront character and this shall include such features as large first floor commercial windows and a main entrance at the corner or along one of the street facades abutting the commercial windows. If you meet those criteria and a few others that are spelled out in 1304.04 you are then able to petition the Zoning Hearing Board for special exception use to allow you to put in that business at that location. Attorney Preston expressed his clients do own a property; it is up the street at the corner of Market and New and is directly across from the Moravian Academy. It has been recently restored and renovated. We petitioned the Zoning Hearing Board for a use variance to allow the single family dwelling on that property to be converted to an office use. It is important to understand the factual background. Many people believe that property contains that single family dwelling and nothing more but that is not really the case. That particular property contains that single family dwelling and then there are three green buildings as you go up New Street that everyone is familiar with, that is the old Moravian Brass Works. Those three buildings are on the same property as is the single family dwelling. Attorney Preston added also there is the garage that is off to the left and in the back and over the top of that garage is an apartment. So you have a single family dwelling on the corner, the garage with an apartment above, the three retail addresses in the green buildings and you have apartments above that. He explained that is the nature of the use of that property. It is really not practical and probably not possible to subdivide the property given the way that it is set up. You can touch the walls of the residential building and the retail buildings without moving. It would be impossible to walk between the two without trespassing on somebody's property. They are interconnected in terms of utilities and so forth. Attorney Preston noted it is a package unit, you get both the retail and the residential or you get nothing unless of course you remove one of those uses. We proceeded to the Zoning Hearing Board and there was some back and forth and some procedural history that went up and down through the courts. Eventually we got a variance from the Zoning Hearing Board that would allow the conversion of the single family dwelling to an office use for financial consulting subject to certain conditions that were imposed. That decision was appealed to Northampton County Court and that court affirmed that decision. The occupants and the owners of the property did get a CO from the City of Bethlehem to put the office use in. So let's be clear, it does have a Certificate of Occupancy as we speak for the use that is there now. There is office use there now. Attorney Preston stated the County Court's decision was appealed to Commonwealth Court and the Commonwealth Court reversed the County Court and obviously the Zoning Hearing Board. That means the only alternative now as we see it is a legislative one. So that brings us to the text amendment that is the rationale behind it and how we got here. We took the existing zoning ordinance and we went to 1304.04 (a), the section he just described and we essentially duplicated

it. We duplicated it as 1304.04 (b) and if you look at that copy you were provided with a red line version that shows the changes. What you see is that 1304.04 (a) stands as written with no changes there. Then we added (b) which is essentially a cut and paste of (a) into part (b) but we changed the threshold criteria. If you remember before you needed to have a storefront. A storefront character had to be used as a retail business. We changed that and we changed it as follows: As a special exception, the conversion of a single family dwelling to an office use may be approved by the Zoning Hearing Board ("the Board") provided all of the following requirements are met: (1) The lot shall be at the corner of 2 streets and that part is the same as before and shall contain some form of a nonconforming retail or commercial use in combination with a single family dwelling. That is the threshold criteria and that is important because that tells us this ordinance does not, cannot and shall not be applied to anyone that has a single family dwelling. It only applies to lots on a corner that have nonconforming retail or commercial uses in combination with that single family dwelling. We would submit that in and of itself is a unique characteristic that you will see is important later on when we get into the specter of spot zoning. Attorney Preston explained other than that what the ordinance will allow is that the Zoning Hearing Board, if we meet the proofs, we can then convert that single family dwelling into an office use. The uses to be permitted are listed in the ordinances and are limited to those of medicine, law, architecture, engineering, art, religion, music, insurance, real estate, psychology, accounting and financial services. So if you meet the criteria in the ordinance you do not get to put the office in, you get the ability to apply for a special exception. So there is an additional layer of protection. You have to go to the Zoning Hearing Board and if you are successful with the Zoning Hearing Board the best you can do is convert to one of those office uses. As you know, when you get to the Zoning Hearing Board they have the ability to apply certain conditions. They can have for example, conditions concerning parking, signage, lighting, and those types of things. Of course, we got our variance and it was structured such that the building had to retain and preserve the residential character of the building itself. Attorney Preston remarked that is in essence the way the ordinance is structured. So we intentionally took an existing scheme out of the ordinance and followed it, and part (a) which is the store front which has been used by the City several times he believes to convert these corner businesses back into stores, and we know it works. It has been used and people have gone to the Zoning Hearing Board and have gotten special exceptions to do that. Attorney Preston is sure the City can confirm that when they get to their presentation. We are asking that we follow the same rationale for properties that are encumbered with these mixed uses. There are a few things he has to deal with here that we kind of knew of before we got to the Planning Commission, but we were certain of when we were done with the Planning Commission. One of those has to do with some of the legal issues around this. It has been claimed that there is spot zoning involved here. One of the contentions is that because this is a landowner proposed amendment that it benefits a landowner. As you know citizens have an absolute right to petition their government for a legislative change. Those laws are incorporated in our land use laws and of course they are incorporated in your zoning ordinance in Article 1326 which says that "Proposals for amendment or repeal may be initiated by City Council on its own motion, by the Planning Commission or by petition of one or more citizens." Attorney Preston would respectfully suggest that it would be the rare case where someone would propose a zoning ordinance amendment that detrimentally affects their property. In fact if someone proposed a zoning ordinance amendment that would benefit their property that should not come as a surprise to anyone. One of the curious things about the amendment that is in front of you now is that it is a text amendment. It does not change the colors on the map and that is important as well because the courts have routinely found that in order to have spot zoning you have to change the colors on the map. Text

amendments traditionally do not amount to spot zoning. For example, this is a case that I had presented to the Planning Commission and it is called the Appeal of Kates and essentially what they said was "the appellants first argued that the ordinance permitting the expansion of the use was designed for the benefit of four specific landowners and that it therefore constitutes unlawful spot zoning. We find no merit in this argument because the ordinance does not rezone any property but merely permits the expansion of existing buildings if they meet certain criteria set forth in the ordinance. Spot zoning is defined as a singling out of a small area of land for different treatment from that accorded to similarly surrounding land. Spot zoning is a concept of land classification. The ordinance in question here does nothing to alter the zoning classification of the land on which the use sits and it does not therefore spot zone any property." In essence what is happening is the text amendments the courts have found cannot really serve as the basis for a spot zoning challenge. There are some other cases, because some of the legislators have gotten particularly creative in using text amendments to avoid spot zoning challenges that suggest it may be possible for a text amendment to become spot zoning. He added that you still need to get past the definition of spot zoning, which says that it is the singling out of a piece of property that is essentially indistinguishable from the surrounding property. The zoning ordinance in and of itself says that in order to qualify for the special exception use permit the property has to meet certain characteristics. One of those is that it contains both permitted residential dwelling and non-conforming retail commercial business. So by definition the threshold criteria of the ordinance requires a showing that the property itself is unique, that it not be similarly situated to surrounding properties. We do not believe that the zoning ordinance issue is a valid one. He is sure we will hear more about that and he can respond to those arguments as they come up. Attorney Preston related when the zoning ordinance was submitted some time ago we then were asked to and agreed to a continuance of time to allow City Administration to look over the ordinance for whatever reason. But when we got to the Planning Commission we did get the City's memo and the memo says that the City was unaware of what the impact of the ordinance could be City wide. They were not sure how this would affect the City if Council were to adopt this. He assumes that the City's position has not changed because he has gotten a copy of the memo and it is the same memo that went to the Planning Commission. So he has to believe that since we met with the Planning Commission that the City has not done an analysis to determine what the impacts of this ordinance would be in the City. Because that is a fair question and an important question we have done that ourselves. Attorney Preston then presented handouts to Council Members. He explained they took it upon themselves to determine what those impacts might be. At first it might be an insurmountable project to see how this will find what this does within the City, but when you get into it that was really not difficult. It only applies to the RT and RG zones so you eliminate properties that are not in the RT and RG zones. It only applies to properties that are situated in intersections, which significantly narrows the eligible class, and those properties of the four that are at the intersections must contain some form of a non-conforming retail or commercial use in combination with a single family dwelling. So with the help of Van Cleef Engineering and a staff of paralegals and the County's tax maps and the City's maps we were able to put together a list of those properties. We had found that there are eight properties that could be affected. They could be affected because we erred on the side of including them to give a full feel of what the impact might be. You will see from the exhibit that he presented the eight properties are listed here. You will see at the end Number 8 where it says 511 New Street that that is the property owned by the petitioner. Most people refer to it as 2 West Market but it appears on these tax maps as 511 New Street. He noted that is because there are exactly 3 or 4 addresses at the property because of the multiple uses. Attorney Preston explained each of these eight properties we have taken and translated that information onto the City's

zoning maps. So if you go back to tab 9 you will see these are zoning maps that were taken from the City and then Van Cleef took those and identified the properties so City Council could see exactly where they are. You will see on the first page you have 1124-1126 Linden Street and 834 Linden Street identified. If you go to the last page you will see 511 New Street and that is the property that is owned by his clients. That particular property if you look at it pretty much the entire north side you will see concern about what the impact would be on the north side and you can see there is really one property that would meet the criteria for this zoning variance. Attorney Preston would submit that the impacts would be relatively minor. Some of these properties might not even qualify; you would have to do a further analysis. As he said, they wanted to err on the side of giving the City the most expansive view of what those issues might be. Attorney Preston continued with the ordinance itself and noted the ordinance itself does not allow for the conversion of any property into an office, it does not do that. All the ordinance does is allow properties that meet these criteria to then apply to the Zoning Hearing Board for a special exception to convert that use into an office. That is all that it does. Attorney Preston believes he has covered most of the points and will take any questions from Council. He added that Kori Lannon is here who is one of the principles and would like to address Council on this matter if that is possible.

President Waldron informed as our rules have been lined out Attorney Preston is allowed to speak indefinitely if that is your will. Anyone else additionally who would like to speak would be under the 5 minutes time limit.

Attorney Preston explained he has completed his presentation if Council has any questions.

President Waldron added in our original agenda timeline we were going to hear from Darlene Heller, Director of Planning and Zoning and then open it up to Members of Council for questions.

Ms. Heller explained Attorney Preston did lay out a very accurate timeline and information on the history of how we got here. There has been more than one trip to the Zoning Hearing Board and on the third trip the Zoning Hearing Board did approve the variance necessary for the use. Prior to the Commonwealth overturning that, permits were issued for the work to go ahead and the work was completed for the office to be located in the building. She believes that they have been open and functioning for about a year now or maybe more than a year. Ms. Heller added when they got the zoning text amendment they did look at the comprehensive plan, which we would typically do. We take a look at where the property is located, if it would apply to any area of RT and RG. Really it is designed to affect the use at 2 West Market. We did have some back and forth about this at the Planning Commission Meeting with the Planning Commission members and also with some of the comments from the public. Ms. Heller explained in her office they provided a map to the Planning Commission and she believes some of the interested parties also provided a map to show the kinds of uses that are already located in the district. That was included in your packet. In our view it is somewhat of a mixed use neighborhood. It does abut the CB, Central Business Zoning District and is also across the street from the I, Institutional Zoning District and there are a variety of uses on that Market Street and New Street corridors in that neighborhood. Ms. Heller added the comprehensive plan does talk about in high density residential neighborhoods allowing some mix of housing types and some mix of non-residential uses that would be appropriate. It does use the term "as

appropriate” and it talks about also insuring compatibility between those uses. So it is not so flexible that anything goes but certainly there are some uses that are appropriate in a dense residential zoning district like RT. Ms. Heller communicated the description in the text amendment states the lot shall be at the corner of two streets and shall contain some form of a non-conforming retail or commercial use in combination with the single family home. There was also some talk about that at the Planning Commission Meeting to talk about how expansive would that be within those two zoning districts. She noted that RT and RG cover most of the residential areas of the south side and the west side and the near north areas in north Bethlehem. So it is a pretty broad area and we did have some discussion about how many properties that would affect so we have some information now. We would need to take a look at that. There were some hesitations from some members of the public and from two of the Planning Commission Members about allowing too much flexibility when we really do not know what the impact would be. Ms. Heller advised generally the Planning Commission Members also felt that the use itself at this property, the reuse of this property was well done. It is attractive and seems to be of low impact because of the parking, etc. She thinks the hesitation from the Planning Commission Members really was a lack of knowledge about the reach of the text amendment and also some concern about when we provide relief to a specific property. Typically we do that through zoning hearing board relief. We would not generally do that through a revision to a zoning ordinance since that applies City wide. So there was some discussion in that regard as well. Ms. Heller stressed that is much of the comment of the Commission Members. You have seen our memo and she thinks we can take a look at some of the information that has been furnished tonight but other than that, what Attorney Preston presented was a fairly accurate reflection of the meeting itself.

President Waldron mentioned the handout we received from Attorney Preston with the eight properties, he queried if Ms. Heller had seen that list before.

Ms. Heller replied no.

President Waldron emphasized Ms. Heller cannot speak to the accuracy of that handout.

Ms. Heller stated she is really just looking through this for the first time. In the section retail or commercial in combination with a single family dwelling, in looking at these buildings from the outside she does not know if you would consider these buildings to be a single family dwelling or not. They may be multi-family dwellings, she does not know. We would have to do some additional research and see.

President Waldron expressed that a single family dwelling that has been converted to a multi-unit dwelling and where does that fall in line with what we are considering, is a point to consider as well.

Ms. Heller thinks we can take some time to look at these properties a little more closely.

President Waldron mentioned what was said about the Planning Commission was exactly about that point, which is what is the reach of this ordinance. To not know and pass it he thinks is irresponsible of Council. He would encourage and expect the Administration to dig into this to find out exactly how many properties are we talking about. Are we talking about one or are we talking about a handful? That should be known before the vote.

Ms. Heller pointed out they did not conduct any research about how many properties this would affect. It is not typical that a text amendment would be submitted by a property owner and we did feel that research could be pretty far reaching and it would be very time intensive to be an accurate list of how many properties this could affect. So we felt that was the applicant's responsibility to do that. We could take a look at the information as presented in this packet to see whether or not the text amendment would actually apply to these properties individually.

President Waldron thinks that would be helpful to Council. He does not know if it is in our ability to ask or demand you to redo all the work that was done by the applicant or if it would be appropriate for Council to do that. Obviously we would take the word of Attorney Preston; a lot of work has clearly gone into this if you were going to look through the RT and RG districts to decide which of these properties fit that. He thinks it would be our hope at the minimum to view these eight properties from your perspective and your interpretation of the ordinance and see how it fits in there.

Ms. Heller advised they will take a closer look.

President Waldron then wanted to clarify for everyone in the room that Council is not taking any action; there is no vote this evening. There is some time before our next Council Meeting when this will be read at the first meeting in December for First Reading of the Ordinance. Any new ordinance like this would have two readings. We would have the First Reading at the first meeting in December and then our last meeting in December would be the Second and Final Reading. So there is time to gather more information to deliberate a little more so we have everything we need before we have that first vote in December.

Ms. Heller clarified, the text amendment as it is written, the provision in the current ordinance and the amendment that was added make these provisions as a special exception use. If the text amendment is adopted the property would still need to go again before the Zoning Hearing Board for special exception and approval. Just to clarify, a special exception technically is a permitted use. It is a permitted use that is not permitted by the Administration; it is permitted by the Zoning Hearing Board. It allows the public an opportunity to comment and also allows the Zoning Hearing Board an opportunity to add additional conditions. So there are some protections, but it is a permitted use that is permitted by the Zoning Board, just to clarify that. There is some additional review. It is not a by-right permitted use but it is permitted by the Zoning Hearing Board. The threshold is that they would need to show that they meet the criteria within the text amendment.

President Waldron mentioned if that were the case, if one of these property owners on this potential list, or really the one that we are discussing tonight went to the Zoning Hearing Board and they put conditions on them, they would be granted that special condition to operate the business following those exceptions.

Ms. Heller stated that is right, and added that Attorney Preston gave some examples. They could put in conditions as far as parking, the number of employees, the hours of operation; those might be some typical conditions they might consider.

President Waldron asked does the Zoning Hearing Board have the option to say no, or are they guaranteed to have to say yes and decide on conditions.

Ms. Heller stated no, there is no guarantee, there is never a guarantee before the Zoning Hearing Board but a burden of proof shifts. If someone is requesting a variance they would need to show a hardship and the burden of proof is on the applicant. In a special exception the applicant needs to show that they meet the criteria in the ordinance but the burden of proof to show that they do not meet those would be on any interested parties. So the burden of proof shifts.

Dr. Van Wirt stated when she first heard Attorney Preston's presentation of these she immediately was concerned. She thinks these are single because it says here, must contain some form of non-conforming retail or commercial use in combination with a single family dwelling. She queried if a current apartment building owner would want to consolidate, for instance if they had three or four units, and come to the Zoning Hearing Board and request consolidation of those units.

Ms. Heller noted it says single family dwelling.

Dr. Van Wirt is saying if she owns a building and it has three units in it and she comes to the Zoning Hearing Board and she says she wants to change her units and consolidate it, just like the house across from her house. She wondered if they can do that.

Ms. Heller noted she means going from three units to one unit. If you come in and get a building permit for a deconversion, they would do the work physically out in the field and they would send someone out do to an inspection and document that this has been completed.

Dr. Van Wirt assumes there are a lot more buildings in Bethlehem than just these eight that have a ground floor retail use and multiple apartments above. So theoretically that owner could go to the Zoning Hearing Board and say they have a demand for a 4 bedroom apartment and wants to consolidate it into one unit. Of course that is their right, and the Zoning Hearing Board says yes and then a few years later when the Zoning Hearing Board is entirely different people and City Council are different people; they could come and say they want this to apply to them. She queried, could they do that?

Ms. Heller guesses anyone can ask for anything but she thinks there would be some interpretation on whether or not that applies, because they would have a commercial unit on the first floor and an apartment above. So she thinks that Dr. Van Wirt is asking if they can turn the apartment above into an office. They would have to ask for an interpretation on that. She does not think it is clear. It says single family dwelling. There really is not a separate single family dwelling in that case.

Dr. Van Wirt is saying to make multi-family dwellings with ground floor retail, if they are asking to consolidate those apartments into one they would look like these buildings. Her point is that the scope of this she believes is bigger than we are anticipating with just these buildings because anybody can turn a multi-family building into a single unit building depending on how they want to spend their money and do their construction. She believes the scope of the impact of this is bigger than just this. It actually points out a real conundrum because this is a single appellant coming here asking for this text amendment. It is not on the City to prove this. It is not on you and us to provide the evidence that this or is not going to have an impact, it is on them. For example, if she is asked by a drug company to prescribe a medication and that it will do great

stuff, she does not take the drug companies word for it as much as she is not impugning the integrity of Attorney Preston but she does not take their word for it because they have a vested interest in my accepting their data. So how do you find data here, who does this data? This request itself puts the City and City Council in a very untenable position because there is no way to obtain objective data when the appellant is the one coming forward with the request for a text amendment. Her point is this has a greater impact than just these properties.

Ms. Heller advised it would require a very expansive analysis in her opinion of the City, a good chunk of the City to know where there would be commercial uses because it covers a wide geographic area.

Mr. Callahan queried if we have ever had a situation like that where someone has asked the City for that.

Ms. Heller noted sometimes there are applications for deconversions and frankly sometimes we encourage that. Sometimes we want properties that had been single family to be converted back, if they had been converted to apartments, to be converted back. We try to incentivize that, although it does not happen very often.

Mr. Callahan asked if that is also part of the Northside 2027 plan as far as trying to get rental properties back to single family units.

Mr. Reynolds would say that this is probably the goal everywhere. It has come up before in conversations. We are still in the planning stages. He knows the City's efforts with deconversions in the past, the incentives that were offered did not exactly work. He also thinks there is the ongoing conversation with the people involved in planning for Northside 2027 including the people in the neighborhoods about how do you maintain neighborhoods for both rentals and also owners. He cannot say that it has absolutely come up; he has no specific programs associated with it. Mr. Reynolds pointed out that Mr. Jennings with Community Action Committee had discussed the one where you would allow people renting to maybe have some type of assistance in the future to purchase the home they are renting. Then once they purchase that home, maybe try to deconvert it at that point. Mr. Reynolds would say at that point it is in the planning stage, but Mr. Callahan is accurate in saying it has come up before as a topic.

Mr. Colón mentioned Ms. Heller had alluded to the few trips to the Zoning Hearing Board and that the permits were issued prior to the higher court overturning the Northampton County ruling. He queried about the timeline for this.

Ms. Heller does not have the dates in front of her but pointed out that the Zoning Hearing Board granted a variance for the use as it was applied for. She believes that the interested parties appealed to Lehigh County Court and Lehigh County Court upheld that decision. It was not until after it was upheld, if she remembers correctly, that the property owner chose to go to HARB to have the project reviewed by HARB and then come into the City to get building permits to actually do the work. Then the work was done and completed. They received the Certificate of Occupancy for the new use; this has been about a year. In May the Commonwealth Court overturned the prior decision. So at that point in time it again became an unapproved use and the City did send an enforcement notice in August. In response to the enforcement notice they filed the zoning appeal and appealed the enforcement notice itself.

President Waldron thanked Ms. Heller.

Mr. Colón informed he was just looking at the timeline although he does not need exact dates, just really what was the hire courts reason. He understands that the Zoning Hearing Board after a few meetings, granted the variance and it was upheld by Northampton County Court and then overturned at the higher court. He asked Attorney Preston to speak to the reason it was overturned at the higher court.

Attorney Preston prefaced that by saying what he said at the Planning Commission. As an Attorney he is an officer of the court and we have certain rules of conduct. We are not allowed to disparage the courts so he will just read directly from the opinion. He believes the court made the same mistake that most people make when they look at this property. What most people see is a house; they do not see the property. The property is not a house; the property is a house, plus two apartments plus three retail stores. Attorney Preston can read to Mr. Colón directly from the decision that he is interested in. In fact, it is in the closing sentences. "Wherein the Court says that the applicant had the burden to show that the property could not be used for permitted purpose, applicant did not show the currently conforming single family dwelling could not continue to be used as such." For this reason they reversed it. He continued to say they may be correct if this was a property that just had a house on it and all we wanted to do was convert that house into an office. He thinks this opinion would have a point. But as he read to Mr. Colón, the court correctly identified that the applicant had the burden to show that the property could not be used for permitted purpose. He will submit that a property that has non-conforming uses on it by definition is not used for permitted use; it cannot be used for permitted use unless of course you eliminate that non-conforming use but that never made it into the courts reason. Attorney Preston thinks that is where the wheels came off the cart. The Zoning Hearing Board understood that and he believes our local courts understood that but when it went upstairs somehow something got lost in the translation. He thinks it is important to be mindful of this issue the notion of the non-conforming use that is appended, attached, a part of this property, because it is going to make the City's job much easier as it did for us. You do not go and excerpt the records for every single piece of property in the RT and RG areas. You find the ones that are on the corners and you find the ones that have non-conforming commercial retail uses associated with them. If they do not they are out of play, it does not apply, end of discussion. You do not have to go through all of the properties in every zoning district to figure this out, it is not that difficult. They did it and he added that when he gave that list he was careful to say that we were over inclusive for many of the reasons that Ms. Heller stated. We are not exactly sure of what the single family dwelling, how the staff wants to read that or how the Zoning Hearing Board wants to read that. We did not have the ability to go inside these properties to see how they are configured so we took the ones that had the non-conforming retail commercial and had a residential component and put it on the list.

Dr. Van Wirt asked if it were possible to subdivide this lot into the house and then the non-conforming uses. That seems to be where the courts were going with their thought about how to tackle the primary use on this lot. It is an enormous house which has primarily been used as a residence for years and then it has smaller non-conforming uses on the background. One of the remedies that she thinks the court was aware of is that this property could be subdivided. She says this because her property is the same. She also has a non-conforming use on her property, she lives on that block. The garage that they currently use is zoned Industrial and the solution was to subdivide it into two different lots. It eliminated all of these problems of what is

conforming and what is non-conforming and commercial mortgage versus residential mortgage. She does think that is what the court was saying, that this can still be used as a residence even with the non-conforming uses you can simply divide that into a separate lot or choose not to use those doors as commercial, to use them as something else. She queried if he would agree with that.

Attorney Preston stated he would not agree with that. He explained that the situation she is talking about, with her lot, which is in the interest of full disclosure, is adjacent to his business office at Broughal & DeVito Law Offices. Her lot had split zoning, so it had a zoning boundary so by subdividing along the zoning boundary you separate the two lots. That is not the case here. This is in a residential zone, and there is no way to eliminate the non-conforming of the retail use other than one or two choices. You could eliminate the retail uses or rezone just that piece commercial and then do what you did, after you get it rezoned to subdivide it off. The problem is unlike the property of Dr. Van Wirt you cannot really do that because he can put his hand on the residential building and put another hand on the green building that is next to it. How does this get subdivided and how does someone walk around their house without trespassing on their neighbor's property. You would not meet any of the minimum lot sizes and you would not meet any of the setbacks. There are also integrated utilities, electric lines and so forth. This property was developed historically over time as an integrated use. What changed was not the property but the zoning ordinance and the zoning ordinance has now put this property in a very unique and quite frankly painful position. We have commercial retail and we have residential uses on the same property. If someone wants a mortgage for a residence they will not get a commercial mortgage. If they want a commercial mortgage they will not likely get the residential mortgage. Attorney Preston stated there is really no need to continue to force this property to have to suffer with this hurt. This particular amendment that we are proposing would address the problem for this property. It will not bleed out through the City and will not have any other homes on the north side to be converted into offices or really any other homes for that matter unless they meet the criteria that are in the ordinance. He would welcome to hear what Ms. Heller and her staff have to say about that. The answer to Dr. Van Wirt's question is no, it cannot be subdivided. As a matter of law it would not meet the minimum requirements.

Dr. Van Wirt stated her greater point was that she thinks the courts were looking at the primary use as a residence and a secondary smaller non-conforming use that the logic would be to make the smaller non-conforming use the one that is changed rather than the larger conforming use to be the one that is changed, a different opinion.

Attorney Preston advised it would be hard to get to change that to residential and have people living in those little store fronts. The advantage we have in this particular case is that we do not have to speculate, we know what is there because it is there. It is a beautiful building; there is no increased burden on traffic. He knows people have objections having to do with what hour at night the lights go out and whether or not people are there in the evenings. Those are concerns, he understands that. What will happen if we allow this building to be used as an office for financial planning? We know what that is, we all know and can go see this now, and it has been there. Attorney Preston explained the likelihood of this having an adverse impact on the City is de minimis.

President Waldron related if this text amendment passes and goes through he wondered what the intention is for the retail space on New Street.

Attorney Preston informed the retail space is to be preserved as retail space. Those buildings have historical significance. He found out during the course of the zoning hearings these buildings were the old Moravian Brass Works where they made instruments. They will remain as retail space. They were there before the house, they are the original buildings. We did get a decision from the Zoning Hearing Board and the conditions that they attached at that time were "One-based on the foregoing by a 4-0 vote the Zoning Hearing Board by a 3-1 vote granted a use variance under Section 1304.01 subject to the following conditions: that the applicant make renovations to the building comparable to those discussed in its testimony such that the exterior remain substantially similar and retain its residential character. Two-that the portion of the property to be occupied by the business office be limited to the residents and the first floor of the retail building, the second floor of the retail building available for storage and that the applicant maintain the apartment use and the garage. Three-that the property is limited to one business entity and shall be used only for the professional offices and that the business entity on the property be limited to having no more than 14 employees, 11 full time and 3 part time as detailed in the applicants testimony." Attorney Preston added there are other things in the applicant's testimony concerning signage and so forth. The use would be essentially permitted if you meet the criteria. But the Zoning Hearing Board gets to attach conditions as Ms. Heller had said and those include signage, lighting, exterior treatments, the number of employees, parking and so forth.

President Waldron asked what the intention is of the retail space.

Attorney Preston stated it will remain retail.

President Waldron queried what is in there now.

Attorney Preston informed there is a dress shop on the first floor and has been there for quite some time.

President Waldron asked how many spaces we are talking about on the first floor of that retail on 511 New Street.

Ms. Lannon said it could be one or two and they are connected interiorly.

Attorney Preston believes there are three mailing addresses there and at one time there were two separate stores.

Ms. Lannon stated there were two separate stores in there at one time and there are two addresses there and an apartment that is currently occupied.

President Waldron queried if the utilities of those buildings tied in with 2 West Market.

Attorney Preston believes that they are. When you say utilities he is not sure about electric, he thinks they may be separately metered but is not sure.

Mr. Callahan pointed out that one of the addresses is 2 West Market and another is 500 New Street but he queried about the other. He asked if that lot was every subdivided and put together.

Attorney Preston stated no, it never was. It has grown that way. The green buildings, the retail was there first and there is a little bit of a residential space above them which over time became an apartment. The home was built later and then the garage was built into that all on that one property. They were never developed individually and then merged.

Mr. Callahan asked if they were all on one deed when they were sold.

Attorney Preston stated yes, they were all on one deed. That is really the problem; it is one property with one deed.

Mr. Callahan noted he lived for many years at 32 West Market so he knows the neighborhood very well. He knows Broughal & DeVito are there and there is also the financial services office of Mr. Nigito on that street. He wondered if there are any others on that half block.

Attorney Preston stated not on that half block. There are very few single families there. He believes that the Browns have a single family and the others are apartments. The one immediately next to us is an apartment which is 32 West Market.

Mr. Callahan noted that 32 West Market was one single family unit but now is four units.

Attorney Preston mentioned there is the financial service office there and he believes there is another apartment building before you get to the corner. He added that if we follow this where it is situated which is up the street from here at the red light, there is Moravian Academy across the street diagonally is a bed and breakfast and across the street in the other direction is a law office and offices for the Moravian Academy. We see the kids going back and forth at the red light because they have classes over there. Then you move back in directly behind this at the end of the green building and reach out you put your hand on the wall of the Verizon building and directly across the street from that is a mixed residential and business and Van Cleef has their engineering offices there. Attorney Preston explained this is not Sleepy Hollow where this is sitting; it is in an area that is pretty much developed commercial.

President Waldron queried before the current owner purchased this property how was the property used as far as the single family, the apartment, and the retail.

Attorney Preston advised the house, the single family dwelling was used as a home and the retail he believes it was a book shop and an antique store.

President Waldron wondered how long it was used as a single family residential and those buildings on New Street were retail.

Attorney Preston stated the storefronts were never residential.

President Waldron asked if it was always a mixed use on that property.

Attorney Preston stated he believes the correct classification would be Industrial or Manufacturing of some type with having the Brass Foundry there.

President Waldron imagines that was pre-zoning.

Attorney Preston stated absolutely, all of this is pre-zoning.

President Waldron asked if the single family home at 2 West Market was not ever used as a single family home.

Attorney Preston believes there was a doctor's office in there. It was owned by a doctor who saw patients there. He needs to be careful because people will say it was never a doctor's office. It may not have had a doctor's sign outside, he does not know that. It was owned by a doctor and the doctor lived there and we had testimony at one of the hearings that the doctor saw patients in that building.

Mr. Callahan asked if this did not go through, the option would be to keep it as a single family home or turn it into multi-units.

Attorney Preston stated multi-units will be where it is going. To answer your question it is yes, it will probably be changed into multi-family. There are a few uses, a boarding home or multi-family. Those are two that could be used; it is probably not likely it will be turned into a single family home.

Mr. Callahan asked how many customers an hour are currently going in this building.

Ms. Lannan stated there are some days that we have no visitors at all and there are some days that we may have up to three that would be a heavy traffic day for us. Ms. Lannan would say they get anywhere between zero to three or possibly four clients would come in on any given day.

Mr. Callahan asked if they looked into how many units you could fit into that property.

Ms. Lannan informed we have and we have consulted with a variety of different builders and architects. It is our expectation that at this point it would be very difficult to convert that building back into apartments. When you think about it, this was a home and in order to turn it into office use we took out the master bedroom and master bath. We changed that into two rooms. We took out a wall in the back. There is not a lot of room to put in a lot of kitchens and bathrooms and still have decent sized apartment units. The other possible uses for this building would be group homes, rehab centers and things like that. We think it would be more financially viable for that to be done to the building then for it to be turned into apartments. This is feedback we have gotten from people in the field and people who own apartment buildings.

Dr. Van Wirt stated she spoke before the Planning Commission and her comments are fairly similar. She thought it would benefit everyone here to hear what she said then. She knows that Council knows her story well but for those unfamiliar, she is a physician and owns a practice that takes care of nursing home patients. Before she went to medical school she was an urban planner with the City of New York. She has a Masters in Urban Planning and was a project manager building affordable housing in New York City. She only says this so everyone knows that she comes from a place of education and experience as well as being a homeowner on this block. She wanted to talk about the map that has been discussed with all of the different non-conforming uses in this neighborhood. While this map does show what is there she thinks that what is missing is the fact that those non-conforming uses were put in on this block when

Bethlehem Steel was not around, when the economy was doing terrible and these big buildings were having trouble being maintained. Dr. Van Wirt noted that variances were given for non-conforming uses like Mr. Preston's law firm next door to her. While that certain economic situation occurred a decade ago things have changed greatly. We heard at the Planning Commission from a realtor who is very experienced in the historic district who said that she cannot find enough homes to sell for people who want to live downtown. That is the exact same reason that Dr. Van Wirt's husband and her 14 year old twins wanted to move downtown, because we wanted to live in an urban place. So there is a lot of demand now for buildings like this. Whether it is residential, single unit or not that is what this neighborhood is zoned for. Dr. Van Wirt produced a map and stated she thinks the map that is really more relevant is this one; this is taken from our City's zoning map. It shows Moravian Academy and the lot in question. As you can see yellow is residential zoning. This is what we want our neighborhood to be. As much as the law firm is a fine neighbor during the day, they work during the day and lock the doors and go home and the building is dark all night and all weekend. It is not good for a residential neighborhood to have offices next door. There are no eyes on the streets, no people who come down to City Hall to complain about the trash, snow removal or schools. These are people when you have neighbors. That is what makes a community. Dr. Van Wirt takes care of patients at Moravian King's Daughters home because she wants to build a community. This block and this neighborhood has been working so hard to deconvert there non-conforming uses back into homes, back into a neighborhood that looks like what we want our neighborhood to look. Dr. Van Wirt wanted to give that perspective because it is important to understand this from people who live there. She also wanted to make the point about responsible use of taxpayer dollars. She knows that this Council cares deeply about the way the City spends taxpayer dollars. In fact, we sat through a three hour budget hearing last night. She thinks there is a consideration here for the fact that if this text amendment goes through and it will be sued, she believes, if Council approves this, how much money the City going to spend defending the benefit of just one person against the poor outcomes that could happen to our City in general. Another thing is that our zoning code is there to help tell businesses where to go. This business would have not only been appropriate on Broad Street but could have been a foundational business. It could have shored up our hurting commercial corridor. It belongs on Broad Street or in a similar commercial district, not in her neighborhood. It could be a strong commercial presence in a corridor that desperately needs it. She also would like to address this process of a public hearing. She thinks that the public hearing itself gives some type of sheen of importance or legitimacy to this request. Dr. Van Wirt stated the only reason we are having a public hearing by necessity is because we do not have an ordinance that allows City Council to say no to an individual zoning request. But it is legal in Pennsylvania to say no to individuals who come to Council for a personal zoning change request, which is what this is. So she does not want everyone to think the reason we are having a public hearing is because there is so much necessity or legitimacy to this debate. It is because we are mandated to do so. It does not mean anything other than that. Finally, she believes, that every decision by City Council and its role as representative of the citizens and its role as a check against the Mayor and the Administration's proclivities is to ask the question of is this move in the best interest of the City of Bethlehem and its citizens. It is very clear that this text amendment is in the best interest of Mr. Rij. It is also very clear to her that this text amendment does not benefit the City and the citizens of Bethlehem. In fact, this puts our neighborhoods potentially in harm's way with the unforeseen. We do not know exactly how far this is going to go in 5 to 10 years down the line. She urges Council to see this with clarity from a City planning perspective and from a neighborhood perspective.

President Waldron noted that concludes the presentations from Attorney Preston and Ms. Heller as well as comments and questions from Council.

Public Comment

Mike Gausling, 1512 Colesville Road, stated he has been doing business in Bethlehem since 1987 in multiple locations. He was a founder and former CEO of Orasure Technologies until 2004 on the south side of Bethlehem. Since that time he currently operates as a managing partner of a venture capital fund in the Victory Fire House on the south side at 205 Webster Street. He is the Chair of LVIP and has been on that Board for 17 years. So he has been around a long time and has seen a lot of changes. Fundamentally he thought that Council was elected by the citizens to see what the citizens want and watch the change that has occurred. When he moved here in 1987 with three other entrepreneurs it was a very dark time for the City of Bethlehem. Both the north side and south side of Bethlehem were in dire straits. Mr. Gausling first met Herman and Clair Rij in 1989 as they were the first local people to take a bet on us as we started our business in the City of Bethlehem. Since that time we have remained great friends and he has been a client there since 1990. The great news is that we all have come a long way to transform the City in this great place we live today and call home. That required a long term vision and the flexibility of the leadership of the City sitting up here in the front to manage inevitable and constant change and be willing to constantly reinvent yourselves and ourselves and adapt when controversy arises. You on City Council have the duty and the honor to lead that transformation over the last 30 years by making commonsense decisions when they were needed the most. That has been a cool thing to watch for the last 30 years and be honored to be a part of. Fast forward to tonight, he was thrilled and frankly not surprised when Herman and the rest of the Quadrant team had the vision to make the substantial financial investment to try and keep their business in the City of Bethlehem. They could have gone anywhere including the City of Allentown with all of the great tax incentives. They chose to stay here. This is a landmark mixed use property that has been mixed uses since its inception. You have heard that over and over again tonight. Mr. Gausling stated this property is neither residential nor commercial so it needs your attention to finally set the record straight going forward. He thinks that everyone agrees that regardless of whether you support this project or not that unequivocally Quadrant has renovated the building to bring back the full historic context and grandeur in every detail and it looks awesome. They did everything that the Bethlehem Zoning Board requested and so much more and we should all be very proud of what it represents going forward for the City of Bethlehem. As you well understand their request for a variance has already been approved by the Bethlehem Zoning Board and was also approved by the courts of Northampton. It was only when the naysayers continued to press their case at the appellate court in Harrisburg that the State overruled the local government. It is his understanding that the State rarely overrules local government but why this time? He strongly believes it is in the best interest of the City to approve the text amendment as presented. Mr. Gausling asks that you please think locally and fully support this text amendment change as presented. Let's not let some judge in Harrisburg or some paid attorney in Allentown ultimately decide our fate here in the City of Bethlehem. The implications for a no vote are substantial and not in the best interest of the citizens of Bethlehem. Mr. Gausling thanked Council for their thoughtful consideration of this important issue.

Karen Beck-Pooley, 331 Prospect Avenue, stated she wanted to provide a little context for the proposal that Council has before them. It seeks to adjust Section 1304.04 of the City's Zoning Ordinance, to do so in ways that would encounter significantly, in her opinion, to the intention of

that section. She is familiar with this type of commercial use on a corner property addition to a zoning ordinance because she was central to getting an identical one passed in Allentown. That provision now applies to most of what is sort of the central City, the residential neighborhoods that are adjacent to both the Hamilton and the Seventh Street commercial corridors. Ms. Beck-Pooley informed that came about because what we found when we were researching broader zoning updates several years ago was that a number of what had clearly been built as first floor commercial spaces, those traditional corner stores, were sitting vacant throughout those areas. That is because those were now zoned as residential only districts and so those previously corner stores portions of those buildings were no longer allowed. The Allentown zoning ordinance in particular came after these neighborhoods were built. The popular practice at the time of single use zoning did not fully capture the way these neighborhoods were up and running and functioning. They were largely residential in most cases and in this one too but they relied on the occasional corner store. Ms. Beck-Pooley noted as stores were closed and buildings lost the ability to keep this non-conforming use these spaces became all but impossible to occupy in the case of Allentown. These vacant corner stores that were converted into residential apartments were not the best outcome for anybody. These spaces were not always appropriate for residential reuse. Blocks had lost a commercial asset and the residents and neighbors were all worse for that. The zoning update in that case, it was an identical ordinance to this one, was designed to make it possible to reuse those portions of buildings that originally were built as commercial spaces for commercial uses. That was exactly designed to fit the challenge we were seeing in downtown Allentown, those residential neighborhoods. At no point though was that ordinance nor the one here in Bethlehem designed to allow for originally residential portions of buildings or properties to be converted into uses that they had not been used for in the past. So at no point was a mixed use building or the portion of the mixed use building or property designed to be commercial if it had in fact been built as residential. The proposal before you and the idea for this particular property is to take what had been the residential piece of what is clearly a mixed use parcel and convert that residential piece to something else. In the way the text amendment is written is that it would allow for that conversion of residential space to something non-residential on properties that qualify. Just to stress this point the current ordinances corner commercial property use provision was written in a way that showed actually an abundance of caution against allowing non-residential uses in what had been and may be a largely residential area. In fact, only allowed by these ordinances is that those explicitly built as commercial spaces are allowed to be used for commercial uses if, and only if not only they were built that way, but they sit at an intersection. In both Allentown and Bethlehem's case you have buildings that were built as mixed use that were commercial first floor, but if they were not at intersections, this ordinance does not even apply to those. So if anything it was even more restrictive. Ms. Beck-Pooley stated in her opinion and experience as a planner opening the door which this would do to new commercial uses in previously residential spaces, was not the spirit of 1304.04 and actually represents a significant decision on the part of City Council and the City and really does warrant a full vetting by City officials, local stakeholders, by the public more than what can be done at this meeting. That is to really figure out what that means to convert residential pieces of properties into non-residential uses and what the full impact of that might be. Ms. Beck-Pooley informed she is a practicing planner and has been doing that for 15 years now in Philadelphia, New York, Allentown, and Bethlehem.

Lorraine Schadt, 311 Bridle Path Road, informed she is the daughter-in-law of the people who used to own 2 West Market. She wanted to say that her family had tried to sell that to people to buy it as a residential place and could not do it. She stated her family is happy with the

way that the building is maintained inside as well as outside. She has to make that point about inside because there seems to be no value in the City of Bethlehem on the preservation on the inside of a home. We are all, in her opinion, just renters whether we own a property or not. We are guests in this beautiful City. Ms. Schadt noted that the current owners of 2 West Market have done a wonderful job of preserving all the way to the wallpaper of this building. She went through the property a year ago when there was an open house and it is beautiful and very much reflects the way it was when it was a residence for Dr. Schadt. She spent 20 Christmas and Thanksgiving holidays there. It is not ripped apart; it is not apartments and is not a residential facility which in her opinion would be going in the wrong direction. Its current use is a beautiful way to preserve a historic building in Bethlehem. She is very happy with the way it is and it is worth doing the due-diligence of figuring out of what the potential properties are there. Yes, it will be some work but the pipe dream to bring back that block to be a residential neighborhood is slim to none. She was there for 20 years and there are not a ton of lights on. If you want a ton of lights on come and live in her neighborhood because all the lights are on.

Ed Gallagher, 49 West Greenwich Street, he has lived with this over the course of about 12 posts on his Bethlehem Gadfly website. It has audio from the Planning Commission and he will have audio and video from this meeting for people to look at. He thought we were going to finish this tonight so his last post was at noon today and he noted on his website he would deny the petition and used the four reasons that the City gave in Ms. Heller's presentation at the Planning Commission. But now we have a few more weeks. This is a tough decision and what he sees here is two neighborhood groups equally reputable. The decision you make between these groups will be very hard. He has tried to take Attorney Preston's presentation at the Planning Commission down to a sentence he could grip. He said the purpose of this petition is to add an additional use to the zoning ordinance. Mr. Gallagher noted the way he saw the presentation by Attorney Preston at the Planning Commission was that he gave reasons that this would be okay if you wanted to do that. Council, if you want to approve this additional use to the zoning ordinance, do not worry because it is a text amendment not a zoning thing. Do not worry because it is not spot zoning is what Attorney Preston said. Mr. Gallagher thought the question should be why. The purpose is to add an additional use to the zoning ordinance but why? On the one side he thinks you have to say the reason is Kori and her people are good people, they love the downtown and the building and have done everything the Zoning Board requested. On the other hand there is the other group, the neighbors who say they want that neighborhood to come back to total residential quality. There were things grandfathered in there and the purpose of the zoning is aspirational. When it comes to the opportunity to bring these things back to the original residential nature you do it. Mr. Gallagher was looking in court cases trying to find the appeal to Kates that Attorney Preston used as a precedent last time. He went through a lot of cases where exactly the court was saying that. When these things open up you bring them back to the original use or to the zoning. This is a residential area. It has mixed use, it has non-conforming uses and you do not want to proliferate the mixed uses and non-conforming uses, here is an opportunity to bring it back. Kori and her folks are good people so this is a tough decision.

Roland Yoshida, 135 East Market Street, informed we have heard many hours of testimony and you will hear more hours of testimony about the application. He knows many of these people in this room. From the standpoint of Council he can understand how exhausted you might feel. However he must focus the conversation on the basic principle being decided and that is from the Bethlehem Zoning Ordinance 1301.03. The purpose of the zoning ordinance is to

promote the public safety, health and general welfare by encouraging the most appropriate use of land. You can bring in all of these other words but it says encouraging the most appropriate use of land. The current zoning map shows that 2 West Market Street is clearly in a residential zone. Mr. Yoshida informed in the Commonwealth Courts ruling and he is not sure if Attorney Preston gave the full part of the ruling, the ZHB acknowledged that the house can still be used as a residence including multi-family residence under the ordinance. Yet, it concluded using it as a commercial office space that was more desirable. This is not the standard according to the court. They did not say that, he is adding that on. The applicant had the burden to show the property could not be used for the permitted purpose. For a legal document, plain and simple English, the applicants did not meet the standard of a residential zone. Mr. Yoshida noted in the reading of the testimony so far, and he has listened, the larger question is a wider discussion about these issues that have yet to meet the standard. Instead the applicants have proposed an amendment to the zoning ordinance that appears to take care of their prickly situation, but with yet unknown consequences and we will find out about this. Mr. Yoshida senses that many of you probably missed the underlined principle of the standard. This principle motivates many of his neighbors and him to speak against at the moment, the application and he can be persuaded. Let's go back to the first featured purpose of the zoning ordinance, 1301.03 (a) encouraging the most appropriate use of land. To many of us, residential does not mean just buildings, it also means a community's soul and that soul is found in the people who occupy the buildings. To maintain its residential character the historic district and every residential district in Bethlehem needs to be continually nurtured by people who live in it, who share time with one another and have children who grow up appreciating the neighborhood. A 9-5 weekday office building, no matter how well kept, does not meet the underlying principle of what is residential. That is what many of his neighbors and he are talking about. So please cut through all of the details and the nuances that have been discussed and focus on what is important and that is to protect and to promote vibrant residential communities and encouraging appropriate use of land. Mr. Yoshida related this is a tough decision. It seems to him that we are beginning to look at the path of a potential slippery slope.

Mark Schadt, 2257 Pleasant Hollow, Coopersburg, stated he lived in the home at 2 West Market from about 1976 until it was sold so this is near and dear to his heart. In reflecting on the last speaker with protecting and promoting the best approved use of land he would make a strong suggestion that what has come to pass in its present form is the most appropriate and best use of that property. He is not sure when the zoning to that particular property came into effect. They keep calling it residential, but it is a mixed-use property and has been a mixed-use property for a long time. Mr. Schadt noted there use to be horses in the garage. If you go around the block you are talking about Center City Bethlehem, all of the restaurants and stores and the Bell Telephone and Verizon switching tower. Mr. Schadt would have loved to have kept this as a single family unit. Some people fell in love with it and went to a bank and the bank said it is a commercial property and commercial properties carry with it a higher interest rate and they were denied. Essentially the banks do not understand this property; it is not a cookie cutter property. You need somebody who comes in with deep pockets that may not even need a mortgage and bypass the bank but that was just not happening. Anyone who came to look at it seriously became aware of the amount of maintenance that building needs. His family spent at least \$50,000 dollars just so it could be shown in terms of roof maintenance and interior infrastructure. When the main drain to the pipe to the house broke the first plumbing estimate we had was \$200,000 dollars. They proposed tearing out the 2 foot main supporting beam in the main part of the house and you would have to evacuate the house for about six months. Of course we got a

second opinion and there were some new cutting edged things they could do without opening up walls so it was only \$50,000 instead of \$200,000 dollars. Mr. Schadt explained that is the kind of adversity you will find in that building. If you have a business on that property many of the expenses are deductible. It is approximately 7,500 square feet all together. He does not know too many people who want to come down to downtown Bethlehem and inherit 7,500 square feet of drafty airspace and try to maintain that and maintain its integrity. It is just not practical. Mr. Schadt stated in his opinion if this restricted business license is not granted the other approved uses include apartments, a group home, or a drug rehab center. He noted that Mr. and Mr. Rij could just give up and you could have a drug rehab center right there in your neighborhood instead of a clean business with very little traffic. He believes the present use is best for this home. In terms of the neighborhood talking, he was at the many Zoning Hearing Board Meetings where he thought there were approximately 200 people who signed a petition approving its present use. So from a democratic standpoint the downtown residents have already spoken and let you know what their wishes are. He thinks this property would remain either empty or a group home or a drug rehab center unless this mixed use variance is allowed.

Frank Mayberry, 56 West Market Street former owner of 48 East Market Street, stated he a few comments were made that brought to the point of speaking to clarify some things. He informed before he purchased his home at 48 East Market Street it was a combination of dental offices and residences which had been the case from the time it was originally built in 1921. The home consists of a listed 5,000 square feet in reference to Mr. Schadt's drafty large home. It actually is a total of 7,200 square feet when you take into account the bottom floor and the apartment. Because the home was in the historic district he went to the City's zoning office, which was very helpful at that time. They provided the history of the historic district designation and their rules protecting what could and could not be done with the building within the district. This interchange and related materials provided and conveyed two points of clarity that he would like to share. First, the intent of the City at that time was to preserve the historic ambiance of the neighborhood, encourage the return of a multi-use property to a residential status whenever possible. So they encouraged and supported their interest in removing the existing dentist office and turned that into a residence. Secondly, they made it clear that we should discontinue the use of the office. If we did, it would be designated residential and we would not have the option to turn it back to an office. He believes that is the way it is today. On the basis of this understanding we purchased the home in 2007 and invested considerable resources to restore the property inside and out and that was not an expense item to us, it was a cost item to us, we are not a business. There are two points to be made in this regard. There is a market for these beautiful large homes and buyers are willing to restore and maintain these properties. In fact, this home has been purchased and further improved two additional times since we sold it. When we decided it was time to downsize and because of our love for this neighborhood we were fortunate to find our present property at 56 West Market Street. If you are familiar with this area, there is construction of a 12 unit condo townhouse project which was fostered by the City of Bethlehem as residential units to enhance the residential neighborhood. Unfortunately, in the last six years there have been an increased number of attempts to compromise the residential characteristics of our neighborhood through zoning changes and exceptions. If one way does not work we try another. Mr. Mayberry stated recognizing the broad negative changes that could potentially result in making this change to our Comprehensive Plan in the absence of any benefits to anyone other than the party requesting the change he would encourage Council to deny the request when it comes to the vote.

Rick Penske, 12 East Market Street, noted his office is at this address and this is the first time he has been at a meeting like this. He does understand the background and commented that we are here tonight mainly because of a decision that was rendered at the State level overturning what was a decision here in Bethlehem. He looks at this that Mr. and Mrs. Rij applied for a permit, they were granted a permit and the ability to do a major build out. They were granted a Certificate of Occupancy and all that was done and approved at a local level. All of a sudden, at a higher level, a very controversial decision, you can look at this either way, but they came down with the decision of overturning it. Mr. Penske stated he watches football and in football you have controversial calls. The referees on the ground look at a play and make a decision. Sometimes the coaches get out a flag to challenge that decision. The standard on that ruling, which he is saying the City of Bethlehem through their zoning are the officials on the ground who made a decision and ruled in favor of the use that is currently used. All of a sudden the flag is thrown and now we have to take off at a replay. This is a replay from where we all started. The standard on a replay is simple with the officials, unless it is overwhelming evidence that the ruling on the ground is not correct, the ruling stands. Mr. Penske is saying that the City of Bethlehem made the decisions on the ground locally and permitted an entrepreneur to spend almost \$1 million dollars repurposing a beautiful facility. Unless there is overwhelming evidence he does not think it is fair to overturn your initial decision. It is like the game is over and unless there is overwhelming evidence the ruling, the permit should be granted and that is as he sees it. He concluded you made a commitment to them and they spent the money and unless there is overwhelming evidence and right now it is very controversial both ways, Mr. Penske believes they should get the variance.

Sherri Kershner, 575 Hexenkoph Road, Hellertown, stated she and her husband own a business at 51 West Broad Street in Bethlehem. She has heard a lot of testimony and has been involved with this and it is a unique property in the historic district. It is mixed-use already and as we heard from the previous owner that it was hard to sell. She is a big proponent of the development of Bethlehem and she believes in ensuring there is enough growth and development within Bethlehem as well as maintaining the historic district. Ms. Kershner knows they invested a lot of money in the property on 2 West Market and that is a property that would be difficult to sell because it is currently mixed-use. To restore that property to its grandeur, not everyone can make that investment. To make this a group home or a drug rehab center would be not want we want in Bethlehem. We want to inspire people to invest in Bethlehem and be able to have more businesses to come into Bethlehem. With that mixed-use property we have the green buildings, which in the past were the former Moravian Brass Works and they need preservation and investment. Ms. Kershner stated as was said previously the current owners invested a lot of money already. As a business owner she imagines herself in that same situation. She was granted the approval to move into the property, invested huge amounts of money and now is being told she cannot have her business there. These people are big supporters of Bethlehem. They invested money and effort and care about Bethlehem. Ms. Kershner noted these owners are involved in Historic Bethlehem, the Friends of the Mounted Police, ArtsQuest, Cancer Support Community and that is important. Those are the types of neighbors that we want as part of our community. The downtown is more than just Broad Street. The corridor on Broad Street needs visitors that can come and shop. We need to encourage the development of businesses in Bethlehem to encourage people to come downtown. We have hiking trails, and biking trails. People want to live here and they want to work here. It is important that Council supports the growth and development of Bethlehem and she hopes that you support us.

Michael Mittl, 102 West Langhorne Avenue, informed he was born and raised in Bethlehem. He has attended First Presbyterian on Center Street, Notre Dame on Catasauqua Road, Liberty High School and is now currently wrapping up his senior year at Moravian College. He is a second year intern at Quadrant and is here to speak on behalf of the students such as himself who have been lucky enough to be part of this wonderful organization as well as any and all future interns who will be employed by Quadrant. Mr. Mittl explained Quadrant has employed many interns over the five years it has operated as its own entity. These are students that come from Penn State, St. Francis, Moravian College, Elon, Miami University of Ohio, and Moravian Academy. However the one school that has seen the most interns flow through this firm is Moravian College. Being a student himself, he cannot think of a more perfect location to gain credible experience in the financial services industry than right here. The President of Moravian College, Bryon Grigsby who is also a Moravian alum responded today to him in an email expressing that he is in full support for Quadrant to remain at their current location as he sees it is important to the surrounding community and to the students at Moravian College. He mentioned he submitted a letter to Council expressing his support. One of the many reasons students from all over come to Moravian College is because of the town. There is no question why many students fall in love with the area surrounding Moravian. Mr. Mittl stressed allowing Quadrant to remain at 2 West Market will get potential future employees and possible clients excited and interested to moving into the region. With the rapidly growing and competitive City of Allentown just a short distance down the road he thinks that it would be in Bethlehem's best interest to focus on recruiting and maintaining businesses that are willing to invest in the City as well as the many potential students who may want to stay here in the City of Bethlehem. He noted that Quadrant has its own entity and already has the potential to recruit top candidates from local or nearby colleges and universities that will only provide to the City of Bethlehem as the firm continues to grow and only if it remains here in Bethlehem. Mr. Mittl advised as he walks down Main Street and Broad Street, unfortunately he has noticed too many unoccupied storefronts. We should be doing everything possible to encourage companies to invest in Bethlehem's future while providing future possibilities to people such as himself. This is an investment in the continued financial success of the City of Bethlehem. Right here and right now we are discussing more than just real estate, more than just a corner property in this historic district. What we are actually discussing here tonight is the fabric of the City of Bethlehem. At this stage of his life he has been informed that the world is his oyster and he believes it is. He would also like to consider Bethlehem as a viable option, and in order to do so, we students need opportunities. Therefore firms like Quadrant provide these opportunities and should be encouraged to come here, stay here, invest here and continue to support the community. Mr. Mittl stated hopefully Council will support their request and our future opportunities.

Kori Lannan, partner at Quadrant Private Wealth, thanked Council and Mayor Donchez for their time this evening. She noted this story first started in 2012, 2013 when her partner Jason that time took her on a walk and showed her this building. At the time we were thinking of starting our own business but all we were doing was thinking about it. We walked down to this building and looked around and saw all businesses. Ms. Lannan mentioned that Jason said to her it would be great if we could buy this building and rehabilitate it and someday put our business in there. At the time we did not have a business and thought this home will probably be long gone by the time that opportunity gets to us. As it turned out, it was not the case. We did go through a long process of deciding to start a business and working with consultants. After that was all done the house was still available. Ms. Lannan is grateful that Lorraine Schadt and Mark Schadt got up and testified to the fact that as hard as they tried to sell that house to a family it just

did not move. We are not making that up, that is the case. We were told by the Schadt's and the realtor at the time that due to the complexity of the property all that went into maintaining it, being a landlord to two apartments and two storefronts the major investment required into the green buildings and obtaining a commercial mortgage or paying cash the deterrents were just too significant. She does appreciate the testimony from the people who object. She hears that, but the fact is that opportunity existed and nobody bought that property until we did. At that time we had the vision to restore that house to its magnificence of a century ago, keeping it true to the tenor and flavor of historic downtown Bethlehem. Our desire was to become a stable contributing and additive presence to the neighborhood, a good neighbor. We truly welcome any neighbor to become our friends, to visit the house, please stop by and borrow that cup of sugar from our kitchen. Good neighbors and families come in all shapes and sizes and we are a good neighbor and we are also a family. Ms. Lannan stated in the absence of that family that many people would like to have bought that property she does believe that they are the next best solution. We are not outsiders, we are not a large corporation, we are local people who were raised here and went to school here. Collectively we have vested our lives here. We love historic Bethlehem. We are not a family living in that house but we contribute to historic Bethlehem and we contribute to Bethlehem. We are a significant supporter of the Bethlehem Mounted Police, Historic Bethlehem Museums and Sites, the Cancer Support Community of the Greater Lehigh Valley, New Bethany Ministries and ArtsQuest to the tune of over \$50,000 dollars a year. Ms. Lannan stressed they are a meaningful contributor to the economy of Bethlehem and the downtown district. By the end of this year we will have paid \$75,000 dollars in local taxes, \$33,000 dollars of that is the Business Privilege Tax. If we are forced to leave this property at that point we will have no option other than to investigate those incentives that downtown Allentown offers that we ignored initially in lieu of making this significant investment into this property in downtown Bethlehem. Ms. Lannan asked Council to please note that we did not do anything on this property until we had that Zoning Board approval and that County court approval. All of our investment came after that. We went through the proper channels. Now we are a known entity. People have commented on the beauty of the building. We keep the sidewalks free of ice and snow in the winter. We have up kept the property and decorated seasonally and parking has not had an impact. All of those things that we promised have come true. Ms. Lannan stated the most critical thing to get across today is relative to those green buildings. They will be a significant investment to improve to the tune of \$400,000 dollars. We have already shown our commitment to this property. She would say it would be a disservice to separate not only the house but also the historic green buildings from a suitable steward that has already demonstrated a strong commitment to invest in them and to preserve these properties. We just want to continue to be a good neighbor and a reliable steward of this very special property.

Stephen Antalics, 737 Ridge Street, informed the quality of a City can be based upon the welfare of its residential community. There is a historical precedent here. South Bethlehem was a very vibrant community but for some reason, the reason being catering to private interest the zoning board changed the definition of family. A family now became five students non-related living together. So this opened the door for landowners to come in and buy property in Bethlehem. That is because they could make five times as much on students as they could with a single family. The first house became a student house. House by house by house was converted into student housing and over the years this continued. Mr. Antalics advised that Webster Street, Fifth Street, Hillside Avenue, Taylor Street, Fillmore Street, Fourth Street, Birkel Street, Montclair Street, are all student housing. The quality of life on the south side is finished and done. As he mentioned last time this is a cancer. It started with one property being changed because zoning

allowed it. Mr. Antalics stated what that means is that private interest outweighed the needs of the citizens. There is this zoning change before Council. Not reflecting on the quality of the owners, but as he said before, this may be coming to the north side. There could be unscrupulous people who see this and see they can make money here by converting properties into commercial. Then it will eventually drive out the single property owners. By changing the zoning are you setting a precedent that will allow this cancer to cross the river and begin to deteriorate the classical historic district. You will possibly open the door. Mr. Antalics mentioned on the south side one company in New York owns 45 houses and a company in California owns 65 houses. You are looking at the death of the south side, so think wisely before you pass this zoning change.

Gus Loupos, 1539 Rudolph Drive, informed he has been a resident of Bethlehem for 83 years and he knows the Bethlehem area inside out. He speaks on the emotional issue that is before us. Everyone looks at this with their own point of view. What we want to do is what is best for the City. Mr. Loupos thinks that Mr. Rij and his corporation have spent a lot of money and invested in that property and it is better looking and adds much to Bethlehem. Today he went downtown and took a good look for himself and walked on Market Street west and east and then on New Street north and south and there are a mixture of buildings there. You have the Moravian Academy and he saw trucks unloading materials across from 2 West Market. There is a law office on the corner and he and his group converted the Bethlehem Club into offices. It is a mixed kind of thing; there are law offices, residences, and businesses. If it is for the betterment of the City we should all be for it. In his contacts with people there might be many people who are against this particular project but he can say there are many for this project and commend Mr. and Mr. Rij for what they have done. He thanked Council for their time and hopes that they give this consideration. He pointed out there is much criticism as far as the Zoning Board is concerned. The Mayor appoints people to be on the Zoning Board and each person on this Board is voted on by City Council. He was on the Board and when he looks back at projects they approved he is proud of being part of that. Mr. Loupos stated people will say that it is the fault of the Zoning Board and that is why we are in the predicament we are in. He noted that with this project there is no CRIZ money; they took money out of their pocket to make this project go. Mr. Loupos commends Mr. and Mrs. Rij and their people and Council, because he knows the dilemma they are in but he is sure they will use their judgement.

Thomas Jones, 934 Butler Street, Easton, stated he is a paid consultant to the project handling the tax act certification for the client property owner. There are a number of things he can talk about here but he is the guy that had to sit down and research this property in depth. Fortunately there was a lot of reference material at the Moravian archives back to the overseers committee that originally ran the communal economy connected with the Moravian community. Mr. Jones explained the property has always been a mixed-use property and that is in the records at the Moravian archives and also in municipal records he was able to find and in a sequence of historic maps, some that go back reaching into the 18th Century when it was orchards. Then it became a lumber yard and then it became a property where the Lehman family, who were very prominent in the Moravian community not only as master brass makers, but also highly noted for their basically being almost professional musicians especially March Lehman who established the foundry which people are referring to as the green buildings. He had to do an assessment and he still cannot find a building that is equivalent in terms of rarity to the Lehman Coppersmith and Brass Foundry Building. These typically use to survive up until the 1920's but many of these light industrial buildings date from the 19th Century. We do not have these in Easton and he was the City's Historic Preservation Planner in the 1980's there. So for you folks in

Bethlehem you have in these green buildings a tangible connection to your early industrial history that is not necessarily 18th Century but represents the last phase as your community progressed out of your communal economy into the City of Bethlehem. Mr. Jones has looked at these buildings in great detail and in his professional career he has worked on 450 historic properties in terms of historic rehabilitation. He has done historic restoration for 40 properties and he has worked on a number of historic landmarks, one being the George Taylor House in Catasauqua. He is very familiar with the level of craft that is demanded for historic rehabilitation that the U. S. National Parks Service expects. These property owners have exceeded those standards by overseeing other developers who try to cut corners. It is rare to go into a building and see even the sensitivity of maintaining the historic wallpapers that are part of the history of the property and not have that evidence of history removed. Mr. Jones has a full copy of what is called the Part One if City Council is interested and he can place it in the public record. There is a lot of information in here. It has been a wonderful project to work on and he is now going into the remaining steps of reporting the construction that was actually done to the U. S. National Parks Service. Because he is also very active in the City of Easton in protecting our cultural resources there, it is very challenging to maintain our historic districts as our national economies are changing and our regional economies are shifting. One of the things he worked on very heavily in Easton along with others is the Arts Economic Development Movement that we are somewhat known for, not only there but in other parts of the Country. Mr. Jones stated he played a very prominent role on that when he worked in Easton. One of the things you need to consider as you are trying to figure out your uses is not to forget a term that use to be popular but is relevant. You have to find space for the creative class of people. That is not just artists. We have a lot of restaurants in Easton now and that is a creative class. He suggests as you go into this you have to take a sophisticated approach of defining mixed-use so that you can find adaptive reuse to provide the financial basis to preserve your buildings.

Suzanne Virgilio, 476 North New Street, noted she and her husband have resided at this address for 31 years. We have a bed and breakfast there and have raised three sons there. She can say this is very sad. The fact is we are one day away from Thanksgiving which is a holiday that is about being thankful and appreciative and we are here at nine o'clock at night fighting neighbor against neighbor over what. She thinks it is pathetic the money that is being spent to fight Mr. Rij. She cannot believe where people get their time and energy and their money for this. Ms. Virgilio is not sure if she can ask Councilwoman Van Wirt a question but she stated twice so far that there is displeasure with living next door to a law office and the lights are off at night and on the weekend but how long ago did you buy your property. The property was recently purchased and the law office was there and that was not a deterrent in making the purchase. Ms. Virgilio informed the property that was referred to on Market Street that was sold twice and has been on the market still and has not sold. There are properties that sell in this neighborhood at a certain price point, but when you get up above and close to a million dollars it is a whole different ball game. The property that is at the other end of East Market has been for sale and they have dropped the price very close to what they purchased it for and it still has not sold. Ms. Virgilio explained on her block of Market there are three properties in which the property owners have other places and they go to several months a year. During that time period lights are out, there are no decorations, no candles, nothing. On New Street on her block two out of five properties have the same status. So with this talk of neighbors and a cup of sugar and so on and so forth the reality is that the neighborhood is changing and Mr. Rij has invested a large amount of money into bringing this property back and improving the integrity of the block. Therefore she asks that you approve this mixed variance request.

Jim Kostecky, 1009 Stone Stack Drive, informed he has been a resident of Bethlehem for over 50 years and long been an admirer of the historic district. He will try to give a different perspective than what you have heard tonight. He was a contractor from Allied Building Corporation that Herman Rij reached out to over three years ago to do the restoration work on 2 West Market. As a result he travelled a long painful costly road that Mr. Rij took on this. He is probably the one who worked most closely with him through this process and go to understand his thinking along the way. Mr. Kostecky added that his company gave Mr. Rij an initial estimate for the work that he had planned. He pointed out that they had worked in this area before and did the Farr Building and put on the expansion to the Kemmerer Museum, so we knew what it was like to deal with old buildings. He ended up spending over twice of what our initial estimate was and some of this came from problems we saw in a 200 year old building that were unexpected. More importantly Mr. Rij insisted to do this right. We heard the expression that he did not cut any corners and that is true. Mr. Kostecky remembers asking Mr. Rij if he really wants to do all of this but he wanted to preserve this property. Probably these green buildings predate 90% of the historic district. So he completed the restoration and every square inch of that building inside and out was renovated and restored. We have heard from the detractors tonight and Mr. Kostecky believes those detractors saw Mr. Rij and his partners as business people trying to circumvent the rules and regulations to locate their business in a historic district but that is not what he saw. Mr. Kostecky saw a benefactor at work. He had the priority to renovate and restore what was a tired, rundown and conflicted property and had this building beautifully restored. Mr. Kostecky informed from his vantage point, Mr. Rij and his partners are benefactors who have gifted to the City and to the residents of the historic district and to the many visitors who come to Bethlehem to admire our historic treasures, the restoration of an important corner property. It is a stunning transformation and he is not done yet. We talked about those green buildings. The insides of those buildings have not been touched for 70 years and he will be moving ahead with those projects. If this property falls into somebody else's hands the green buildings will probably not be touched and will deteriorate and then Council will have the Goodman Building on the south side all over again. The commitment Mr. Rij made to the restoration of this property deserves to be recognized and appreciated. The property values of all of those living in the historic district can only be enhanced through this process. Mr. Kostecky urges Council to approve this variance for this property.

Jerry Kindrachuk, 3535 Fox Run Drive, Allentown, stated he has a 40 year history as a financial tax planner. He has been involved in historic rehab for close to 40 years which is about when he came to the Lehigh Valley. He wanted to echo what Mr. Jones and Mr. Kostecky said in that the quality of work that has been done is unparalleled. He has been involved in historic projects from Boston to Virginia. The most significant thing that has not been mentioned is the cost of rehabilitating the green buildings. It will be over \$400,000 dollars and probably closer to half a million dollars. From a financial standpoint that is really a gift to the City of Bethlehem. In no way can you generate rental income from those few thousand square feet that would somehow payoff a half of a million dollar investment into a retail spot. It is a gift to the City of Bethlehem in the rehabilitation of the primary building. Mr. Kindrachuk added that this is a gold nugget in the City of Bethlehem and he strongly urges Council to approve the text rule change.

Tim Stevens stated he is a law partner at the law office of Davis & McCarthy at 645 Hamilton Street, Allentown. However, he was a resident of the City of Bethlehem and resided at 54 East Market Street, just a half a block away from the subject property. Attorney Stevens provided exhibits in a black binder to Council Members and asked that they please pull those out

and follow along. His comments will be followed by a number of interested residents and there will be references to that as they speak. He would add to that the Zoning Map of the City of Bethlehem, exhibit 11. In response to Attorney Preston's comment with respect to the decision of the Commonwealth Court opinion on May 22, 2018, if you read the words "the applicant hasn't met its burden"; that was significant. Morning Star did not meet its burden before the Zoning Hearing Board. It was reviewed by the Commonwealth Court and deemed there was not enough evidence of record and it was clear the Commonwealth Court stated this. This stately residential property has been used as a residence for over 100 years and there is no good reason to change its use. What we heard here today is essentially this theme is running through the gap, the applicant Morning Star has not met its burden to establish this zoning amendment is good for the City of Bethlehem. Yes, the Rij family has done a good thing, and yes, they have friended the property, but the issue before Council is the zoning amendment and what impact does it have on the city of Bethlehem. With respect to that it is important Attorney Preston commented that the CO was granted and the Zoning Hearing Board did approve it at one point but the law at this point is the Commonwealth Court has overruled the Zoning Hearing Board and the current use is unlawful. Attorney Stevens has attached the enforcement notice as exhibit 5 of the exhibits for you to review. Another point was brought up by Ms. Virgilio as far as the cost of this. Yes, it is a shame to have to spend any more money on making a consideration of a zoning amendment that will benefit solely the property owner. We have no evidence, and there has been no articulable reason as to how this amendment will positively impact the residents of Bethlehem. All we are hearing is how it will benefit the property owner, and he submits it would be irresponsible for this Council to approve this zoning amendment without such information. As Darlene Heller pointed out the burden is on the applicant; not the city. It is not their amendment. It is being proposed by a citizen and it is the citizen's burden to prove enough evidence before City Council to make an appropriate ruling. That evidence is simply not there and therefore he asks that you vote no. It was also commented by Darlene Heller that it would be very expensive for them to do the research and analysis. He translates that to the word expensive. He has attached the legal fees they have expended so far. It is over \$15,000. That is just the Zoning Hearing Board and Council Meetings. That does not include City Solicitors, City Council Solicitor, Planning Commission time and resources if this would move forward and be approved. With respect to the legal challenges in the event that we have to go that route if this is approved he asks Council's indulgence so that he can review those five legal challenges and the other witnesses that will further factually support those. There is a procedural infirmity with respect to the notice for this particular hearing. There is a case law that he has that in the package under the Shaw decision in particular that this in effect is a map change; it is really not a text change. When you make a comprehensive zoning change, and that is what this is in that you are changing this to a commercial use and as Attorney Preston pointed out there are numerous commercial office uses, and he listed insurance offices and architects and so forth and when you have that type of Comprehensive Plan, we do not know the properties that it affects. There must be a conspicuous notice and that was not given in this instance. The second legal challenge would be spot zoning. You already heard from Attorney Preston but that is not the appropriate definition. The appropriate definition is that zoning provisions adopted to control the use of a specific area of land without regard to the relationship that those land use controls to overall planning, the comprehensive plan, and the general welfare of the public. Attorney Stevens explained that is spot zoning. What we hear from Darlene Heller it is unclear how many properties will be affected. In the memo that was submitted to Council, the end result of this amendment is unclear and therefore that will further substantiate our claim of spot zoning. Another important point, and this was touched upon by Karen Beck Pooley, PhD, who was the first witness that came out

of turn. She did not give her background in great detail. She is a PhD from the University of PA, she works in City Planning, she is a Professor at Lehigh University, and she noted the incompatibility of tacking on this provision to the corner lot provision. The corner lot was designed just for those architecturally unique corner lot properties and therefore to just to put this provision on there is what we call facially invalid. It will be stricken because it does not align with the spirit and intent of converting commercial corner store properties.

Attorney Stevens expressed the second challenge is the despaired treatment claim which constitutes in that there is no rational relationship under their scheme as to why you would just select corner properties that meet their criteria of a single family dwelling plus commercial retail use. What is significant about a corner property? What about the same kind of property in the middle of the block? So there is despaired treatment amongst the properties subject to this particular zoning amendment. There will be a further challenge on the corner store provision. The fourth challenge is very important point which was brought out by Councilwoman Dr. Van Wirt with respect to aspirational aspects of the zoning code. This amendment goes completely contrary to that in that great strides have been made to convert non-conforming uses to residential uses throughout the City, particularly throughout the historic neighborhood. By allowing this amendment you are going directly contrary to that. The whole theory to non-conforming uses, what Mr. Mayberry described of how he took a dentist office and converted it solely to residential. That dentist office no longer exists. That is the theory of non-conforming use. This flies directly in the face of that and will erode all the efforts that were made up to this point to convert these non-conforming uses to a conforming use, and what is expected in a residential community. Attorney Stevens went on to say the fifth/final legal challenge is that this particular zoning amendment will violate the Bethlehem Comprehensive Plan on numerous grounds. First, there is a provision that you are supposed to create a range of housing opportunities and choices. This does exactly the opposite because you are diminishing housing and residential options in the City of Bethlehem. Another point is "foster distinctive attractive use with a strong sense of place". That is what being talked about by the neighbors and beyond that is the security that is if you buy in a residential neighborhood it is going to stay residential. You are not going to get these pop up commercial properties with this new zoning amendment. The other point of the Comprehensive Plan is the effort, and the trend has been to consolidate and live in urban dwelling uses so you can then preserve the outlying natural areas. Well, if you can have commercial intrusion into your neighborhood what it is going to do is push those residents out to the pristine farmlands. It has the reverse effect of pushing residential people in the neighborhoods out into those areas, so it is directly contrary to the Comprehensive Plan. Attorney Stevens stressed that he respectfully requests Council to deny this amendment so we do not have to go down that route, so we do not have to have a legal challenge, so we do not have to expend significant resources for the City by the solicitors.

Beall Fowler, 409 Center Street, stated a lot of good people are saying things that are on different sides of the opinions tonight. He has known the Rij family for a long time and he has known the Schadt's. He informed that Dr. Daniel Schadt was his personal physician for a long time and he just respectfully disagrees with their position on this matter. He disagreed with it at the very beginning when this property six years ago was brought forward to be changed for a variance, for the simple reason it has been elucidated. Simply we were seeing a constant attempt to put offices in houses in the historic neighborhood and incidentally we are seeing Airbnb's coming in. These houses are really desirable for other uses. The Zoning Hearing Board twice rejected the variance that was sought by Morning Star Partners and if that had ended then

something else would have happened but they persisted and so we persist. Yes, the house is beautiful as an office but it is not a house and it is supposed to be a house. Mr. Fowler believes if the owners 5 ½ years ago had been a little more patient, we would now have a family living in that house and the small shops will be in the green buildings and maybe the green buildings would have become residences. Contrary to comment made by one or two people, if you look at the Bethlehem Sanborn maps of the late 1890s, these were in the late 1800s and characterized as dwellings. At least at some point in their lifetime, in the last 1800s, those buildings were residential and that whole property was residential for a certain period of time, if you believe the Sanborn maps which are quite accurate because they are insurance people. Fortunately, most of what he was going to say has already been said. He was going to comment again on the corner lot provision and what it really intended to mean and how inappropriate it is to draft this amendment to that corner lot provision for a situation that is totally different from what was intended and has been carried out for the former corner stores. They comment in their petition that the proposed amendment closely follows the existing text 1304.04 thereby incorporating the rationale of the existing 1304.04. It does not incorporate the rationale. The rationale is totally different and he thinks that point has been made by several speakers. The other point that Attorney Stevens made was that by focusing on a corner lot that you are discriminating against owners of properties that have a similar situation, a single family house that is non-conforming that happens to be in the middle of a block. Mr. Fowler stated if he owns one of those properties and he would like to convert his single family house to an office, he suspects he might have a legal argument that there is no reason for corner to be in this ordinance, therefore is discriminatory and therefore he should be able to do it. He thinks a big can of worms can come out of this if you take this seriously. The other point he thinks that was made by Councilwoman Dr. Van Wirt was there have to be houses on corner right now that are multiple family houses with a non-conforming use that could be converted back to single family houses after which they could go for a special exception and become offices. Again, we do not know how many of those are so by adopting this particular ordinance independent of the quality of what has been done he thinks you are going to worry about unintended consequences that can really jump out and bite you and some bad things could come out of it.

Martin Romeril, 26 West Market Street, thanked Council for being able to defend his residential neighborhood against this proposed commercial zoning change. He just wanted a couple things that he would need to get on the record; he was patient of Dr. Schadt's as was his father. We lived four doors down from them before the Schadt family moved onto the street. We still live there. We never visited Dr. Schadt as medical patients at his house and in all the hours he spent playing with their youngest daughter, he never witnessed any patients attended by Dr. Schadt at the residence. Attorney Preston said maybe, maybe not, and he just want it correct for the record that there has never been any evidence in the 222 page transcript of the April 27, 2017 Zoning Hearing Board meeting that resulted in the one favorable variance for the property investor, that there was ever any commercial activity in the house while Dr. Schadt lived there. He thinks we should review the zoning code for how close a drug rehab facility can be to school. He believes there is a 500 foot buffer and therefore the veiled threats that this could become a drug rehab unit is not a valid threat, but he does not have the zoning code in front of him. Also regarding apartments, some people can only afford to rent an apartment when they are beginning their lives, so he is not against apartments. Apartments are on the street and there are a lot of nice people living in the apartments. The house between my house and the law firm at 32 West Market has been deconverted from four to three units because the owner lives in half of the building now. He noted his remarks will center around the map, but in advance he wanted to

provide a little history of the neighborhood and this intersection. There was a proposal in 2012 to put a commercial office on another corner of this intersection. After some public debate and a zoning hearing the businessman decided to place a new office on Broad Street in the commercial limited zoning, an appropriate place for an office and making use of a large structure that also has plenty of on-site parking. Mr. Romeril stressed best of all there was no loss of housing stock to the residential RT community in any part of this city here on the east side of the Monocacy Street or on the west side where RT residential zones surround the CL district on West Broad Street on the north and the south. He has a picture of the property and parking in the back and noted that it is appropriate under the current zoning code in our mixed community. And that is an appropriate place to do it and there are lots of houses on East Broad Street that could use the same treatment. He referenced a map of the neighborhood that he gave to Council at the last Council meeting. When the original map came out with the memo to the Planning Commission there was a lot of yellow to show where there were rental residents as opposed to owner residences and actually some of those yellow blocks were colored incorrectly. He knows that some of those are owned. He recolored all the residences green, the blue is permitted in the RT district under the current zoning code so all the blue and green on his map is correctly used in the zoning code even though it was just redone in 2012. Mr. Romeril advised that 87% of the uses in this section of the RT district are correct. The red zones are not in the RT zone. They are nearby in the adjacent zoning district which is the central business district but that is irrelevant. He remarked every zoning district in this city touches at least one different zoning district and many touch several so to include the commercial district buildings that he has put in red is to compare rocks and vegetables. They are not the same things. If he were to extend the map to Linden Street and down to Church Street the percentage would go up from 87% higher of permitted uses in residential. One of the things he wanted to show was a lot of these buildings have been reconverted to residential use. He pointed to the map and noted the dress shop, the house at the corner of Heckwelder and West Market, the house on the other side of the Kings Daughter's Moravian Home is being converted from two rentals to one residential property. He explained the Diamonds did a nice job with their house on Center Street, there was the house next to the church that was a dentist office, and there is a Dodson apartment building which is now all residential. The bed and breakfast at Center and Market is now single family so the trend is for the neighborhood to become more residential, not to decay, not fall apart. This is clearly the introduction to the new and previously prohibited commercial use into two residential zones throughout the City - the RT and RG, even though the applicant lost two out of three zoning hearings and four out of five judicial rulings, including the ruling by Judge Roscioli, a local judge who supported the Zoning Board when they ruled in favor of residential zoning and then they had to defend themselves in court. We feel we have a right to defend our residential neighborhood. Mr. Romeril encourages Council not to pass the amendment; not to change the neighborhood to a partially commercial one. It does not benefit the neighborhood.

Bruce Haines, 63 West Church Street, wanted to talk about exhibit 10 which is in the packet, which is the sale in the past decade of 2010 to 2018 of all the homes that are over 3000 sq. feet in the historic district, the large homes that have sold in the past eight years. There are 27 homes, 23 were single family when they were sold and they remain single family. He wanted to set the records straight on something. Mr. Preston said the property is now legal. It is not legal because the Commonwealth Court did overrule the "referee on the ground" and properly. It was a three to one ruling and the attorney on the Zoning Hearing Board ruled against it so he thinks there was a pretty good indication that that was an emotional vote by the Zoning Hearing Board and not a legal vote. The zoning hearing board should be upset with what happened since they

approved this because of the conditions that they put on this. Mr. Rij elected to proceed at his own risk knowing that the Commonwealth Court had not yet ruled and he proceeded and violated two of the conditions that the Zoning hearing board set. One condition was there would be no changes to the exterior of the residential character of the property with the exception of a handicap ramp in the rear and a modification of the front porch. That was identified in the hearing transcript and despite that they elected to occupy the third floor requiring a fire escape and so this huge fire escape was added to the left side of the house in direct violation with the conditions of the Zoning Hearing Board. Mr. Haines stated the City of Bethlehem should never have provided a Certificate of Occupancy for that building because it violated the Zoning Hearing Board ruling. The second condition was that the green buildings had to be abandoned of its retail use; well the green building has still not been abandoned of its retail use. The Zoning Hearing Board required that the green building could not be a retail use and it continues to be such. All during the time where they were operating before the Commonwealth Court overruled, the City of Bethlehem improperly provided a Certificate of Occupancy to Morning Star and they continue in violation today. In a nutshell to exhibit 10, he wants to say that 2 West Market Street is very consistent with the majority of the large home in our district. By general condition of the home, by the outdated kitchen and bathroom, that is generally what is prevailed in the historic district forever. People live there for a long time, they do not update and finally they move and so the people that come in it is just a way of life. He continued to say they generally come in with the resources to update their homes so it is not unusual, in fact, every property basically that is sold, that is what happens. The exhibit is ranked by size starting with the 3000 square foot home on Wall Street and then going to the 7500 square foot Morning Star Inn, which was the largest home sold in the district and that was deconverted to single family. Mr. Haines stated this was put together with the assistance of Gina Kelechava. She is not here tonight but at the Planning Commission meeting she talked about the high demand for homes right now in our Historic District and downtowns from people who are from rural McMansions. He explained that they want large homes so their family can visit but they do not want the big properties. He added that most importantly they want to be within walking distance of downtown so she has a backlog and there is a backlog of people looking for large homes in our neighborhood. Note that 2 West Market Street basically was a three story home but testimony on the record said the third floor was not heated so effectively it was a 4,800 square foot usable living space home to put it in comparable to my old home at 65 West Market Street. He also had a third floor with no heat. The fourth column shows the price per square foot and 17 of the 27 homes that have been sold were home that needed updating. They were just like the one on 2 West Market Street. The other ten had already been updated, obviously the updated home got better pricing. You can see about \$200 a square foot. The homes that were not updated were about \$115 a square foot which is about what Mr. Rij paid for 2 West Market Street. We are showing that every one of the 21 single family homes that sold remain single family with the new buyer. The only exception to that were the three properties purchased by Mr. Brew to create the illegal Airbnb hotels. There is only one multi-family that was sold in the district in the last eight years and nobody knows where that is going. Mr. Haines stressed the point is that we are demonstrating that we are a vibrant residential neighborhood containing a significant large amount of single family homes that are not being converted to apartments. Our neighborhood has been attracting adequate buyers with resources to restore these homes for a very long time. The last thing we need is from unwanted businesses desiring to intrude into the neighborhood. The only commercial remaining in our neighborhood are those grandfathered from early ones before the zoning laws and they are dwindling. Bethlehem is blessed to have preserved its residential neighborhood immediate adjacent to our downtown. Most communities have been unable to prevent this commercial

creep. Mr. Haines emphasized that they are asking Council to vote against this petition. It is bizarre that the City Administration, with its purported professional planning staff, is not adamantly standing up to recommend strongly against this petition as totally irresponsible city planning.

Bill Scheirer, 1890 Eaton Avenue, mentioned he liked the football metaphor. The Zoning Hearing Board was the closest official to the play, but then there was objections to the officials huddled together - the Court of Common Pleas, then it went to the replay booth called the Commonwealth Court. We are now in the league of office and whether they say you were right or wrong it does not really matter. The game is over and scoring is final. We have here a situation where we would not be here if we were talking about the Diamond's house and if a financial office wanted to move in there. We would not be talking about it tonight because of where it is at 425 Center Street. We are only here tonight because this property is in a residential district but on the edge of a residential district and because it is a mixed use property. Mr. Scheirer repeated the question he asked at the Planning Commission meeting - he does not fully understand why this lot has never fully been divided. If it had been we would not be here tonight either. You have a mix use and petitioner who feels because the property is partially commercial that it should become completely commercial because of the money that they put into it. It is equally logical to argue the other way around, perhaps even more logical because it is zoned residential and it is equally logical to say the residential use should dominate and he would like to quote a sentence from the Planning Office memo regarding the Comprehensive Plan "Strategies for preserving neighborhoods include insuring city zoning ordinance adequately addresses issues of compatability between commercial uses and adjacent residential uses on the edge of non-residential districts." The way he reads this is emphasis is on commercial uses. Mr. Antalics and Mr. Fowler have talked about the potential here for precedent. The way Mr. Scheirer sees it is if this amendment succeeds there will be other niches that the lawyers will come forward to fill with commercial uses in residential neighborhoods. Certain kinds of businesses are always attracted to residential neighborhoods. Businesses that do not have a lot of foot traffic and if they are located in a nice house it gives the business a greater aura of substance as opposed to having another office in the bank building.

Jason Cort, principal at Quadrant informed we have heard the analogy of the football replay but the reality at the end of every season the rules committee goes through and they have a chance to look at their rules. How do they make the game safer, better, etc. The past does not matter. We would all like to go back and do things differently for the last five years but we have the opportunity right now to say how do we have the right rules in place. Mr. Haines used the word bizarre that this is still going on. Mr. Cort finds it absolutely bizarre that anybody with a logical objective mind cannot see that we are good for the community, now and in the future on every level. For the amount of revenue we bring into the City to the stewards we are to the fact that he is there at 9:30 at night. We are not a 9-5 business. We are part of the fabric of this community and God willing we will be a part of this community for the next three or four decades and longer than that. Mr. Cort would implore Council to use commonsense and do what is right.

Barbara Diamond, 425 Center Street, loves her neighborhood and feels lucky to be a part of it. It is the people who live there, not the old houses that create the feeling of community. That is why she views every effort to establish a business in a neighborhood as an assault on our quality of life. She expressed this threat is constant. Right now there are three stately homes that

are operating illegally as short term rentals on Market Street and Church Street. Those were all single family residences that are now businesses. Before the owners of these short term rentals, one of them opened his office at 2 West Market Street. Before that there were two men who wanted to buy the Payrow house to convert for their marketing business. Fortunately when he learned about opposition from neighbors he decided to retreat. Ms. Diamond explained that remains residential. Before that there was a fellow who planned to open a bar on West Market Street. We went to court on that and we won on appeal. So pause a minute to consider what the neighborhoods would be like if we did not spend time energy and money into opposing these efforts of creeping commercialization. Our neighborhood of people would be diminished; fewer homes would be available for people who want to live there. Morning Star folks said it was their dream to buy a house in the Historic District. She wished they would have moved in to be neighbors. They would have been welcomed and become part of the fabric of the neighborhood. That is not what happens with a business. Their dream is our recurring nightmare because permitting this change to the zoning ordinance would only embolden the next person who wants to establish a business in the historic district. They say they are benefiting the Historic District by renovating an old house but that is what all of us who own these old houses do. Our house was an assisted living home before we took it back to a single family home. What they are really doing is exploiting the beauty of our neighborhood for their own private gain, that beauty that has come from our investments and our properties. If they really wanted to do something meritorious they could have bought and renovated a property on Broad Street which could have used that kind of investment. Downtown merchants said they support Morning Star because employee patronize their businesses, well so do we and probably a lot more because we live here full time not just from 9-5 on weekdays. Why did Mr. Rij buy this property in 2015 despite it having been turned unanimously down for a variance by the zoning board twice - once in 2013 and once in 2014, and knowing there was considerable opposition from neighbors? This purchase was made even though he was awaiting the verdict of his appeal to the Common Pleas Court. So he was striking out in court even on appeal, was in the midst of litigation, faced considerable opposition and the prospect of ongoing litigation, and he still bought it. Since Mr. Rij's business involves assessing financial risks one can only wonder why he would undertake the considerable financial risk in the purchase and renovation of the house unless there was some reason, some assurances he felt he could not lose. Around the same time in 2015-2016 in what looks like an effort to benefit him, the City initiated a flawed rezoning proposal for just one block - Market Street from Main to New. The Planning Commission deadlocked and it was ultimately withdrawn and never got to Council. The appearance here of favorable treatment is troubling. That effort to rezoning that block is similar to this current effort in the sense there was a willingness to impact other people's properties for the benefit of this one individual. Ms. Diamond stated at some point around 2016 Mr. Rij made a substantial gift to the campaign to build a new stable for the Mounted Police and named it after his business. That is a wonderful thing for the City but it also raises questions when someone who clearly needs relief makes a large gift to name a public building. Ms. Diamond stressed it leaves us wondering why the City is not vigorously defending its zoning ordinance in claiming a neutral stance regarding this tortured effort to squeeze a residential house into the corner store provision. The City even stated in its memo to the Planning Commission that although the amendment is specifically written to provide relief to the applicants property there is no information related to the overall number of properties to be affected. There is no statement on how this zoning change will benefit the community either. She urges Council to reject this effort to change the zoning ordinance in favor of this individual.

Steve Diamond, 425 Center Street, expressed all he heard tonight about the property at 2 West Market Street is that he is a good guy, he gives money to the City, they like him, and there have been expensive cosmetic changes to the house. He questioned is this a reason to allow the property to stand the way it is. Mr. Diamond stated to him this is start of a cancer that is starting to grown in our community and if you allow the cancer to exist there will be metastases to grow elsewhere because other people will use the same methodology of adding verbiage to our ordinances to ask for them to get special treatment. We are here because Morning Star Partners do not want to lose money by moving. We are also here because it appears the City of Bethlehem is quietly supporting the application with their neutrality. Otherwise, we would not be here. Things have been said but the question is what is really gained. If you pass this, Morning Star gets to make a profit on their purchase and there is no guarantee they will be here ten years from now and a commercial industry will come in maybe put in an Airbnb or something else. You are opening the door to commercialization. They get what they want but what does the City get? They get a happy supporter who has given money to them. As he showed there is no benefit because with their \$33,000 that they pay in business tax, a standard family that would buy that house would be paying \$57,000 into the community. If you add lunches that maybe their employees would have you add maybe another \$21,000 so it is basically a wash. They could also be on Broad or Main Street and still pay that same \$33,000 so it is not that they are at 2 West Market Street where they are generating money, it is a fact that their business would be in town. The City gains disrespect for the perception of back room politics. They also gain zoning instability in other neighborhoods, mistrust by their citizens in their belief that their laws have no meaning. Mr. Diamond added that the residential neighbors get encroachment on the residential area and it becomes more fragile. This is commercial creep. He respectfully asks that the Mayor explain the reason for the City's neutrality for allowing one business to enter a residential zone when their taxpayers request support from the government that they should implement the laws that exist. If the Mayor or the officials do not do that he guesses they have little regard for the constituents who support and voted for this administration. City Council is being put in a very bad position, but it is not your job to make sure people make a profit on a financial endeavor. You do have a fiduciary responsibility to the taxpayers on how you spend their money. Do you want to spend taxpayer money to go to court to defend one business that with a high probability it will end up being determined spot zoning and aggravating the law in manners already laid out. Mr. Diamond stated if you do not vote this down, we will go to court against this frivolous request by Morning Star.

Robert Virgilio, owner of Bethlehem Inn for 31 years stated he wanted to point out a few things. He remarked Mr. Stevens was his good neighbor when this all started, and then asked if he was getting paid yet for this. He wanted to ask another good neighbor, Mr. Haines, who he has respect for, if he is going to buy a house in this neighborhood yet and curious to know when he is going to be flying off to Florida for about three-four months in winter. Mr. Virgilio informed that 32 years ago Mr. Loupos was the President of City Council and he had a tough decision to make about allowing the first bed and breakfast to open up and it was not near as bad as this. Mr. Preston has pointed out all of the things that apply to this property and the opposition chooses not to hear it, and decides to say what they want to say. What else that is so confusing over the course of time with this, is that part of the opposition, like Mr. Fowler, says we need more apartments. Other people in opposition like Mr. Mayberry and Dr. Van Wirt say we need to consolidate into single family. Mr. Virgilio expressed we better tell Flex Illick that we are converting into single families because he owns all of the rental properties on Market Street past Center Street. If we listen to the opposition the town is never going to go anywhere. It is going to

be going from more apartments to single family and variety over the past 31 years has been, he thinks, the nice thing about the small town city flavor that we have in Bethlehem. He lives adjacent to 2 West Market Street. Mr. Virgilio stated that the Sinks at 456 New Street live right down from him and Mr. Nigito lives at 14 West Market Street, two doors from 2 West Market Street. We are the most affected either way. Our property values at this point, knowing what Mr. Rij has brought, have gone up 30-50% since three years ago. He thinks that helps everybody. He knows it helps him and his two other neighbors. So, to say this does not benefit the city, he does not know how that happens. He is asking Council to support this. It might be a very difficult decision but rather than being confused for the next 3, 4, 5 years about what is going on in this City we will have made a good decision that will help us in the Historic District. Mr. Virgilio stressed this will increase our property value, have a good neighbor, and have a nice small town because we better get ready for all the people who are going to be coming and will not see it that way, but are rather going to want a utopia that is somewhat boring.

Sheryl Dougan, 253 East Church Street, sees a lot of different sides of this and emotions and understands this is huge dilemma for Council. She thinks that everyone here tonight is in pain but we members of the audience who live here we just do not do businesses. We live here, we brought up our children, we suffered things together, we shared grief, we have supported when somebody is dying. It is a community and we value community, we value each house that is occupied by a family. Ms. Dougan added that we fear as more and more properties are being taken out of our neighborhood and given over to businesses that the worst is yet to come for us. It may skyrocket values initially because we have these great homes that are run by businesses and businesses are productive. What she values more as a person who moved here in 1992, when her son was seven, was the value of community. He had a place to bicycle safely. We value that the neighbors can watch each other's children. We had eyes on the street. Our kids thought we could read their minds but it was other moms and dads, children that played together. We felt like we landed in heaven. We thought what kind of town like this exists, it is like old fashion living and we loved it. During those years when our son was a student at Moravian Academy, he suffered a cardiac arrest, with severe brain injury. He is a member of our community. He attends our social gatherings; he is much beloved by our community. This is the value of our community. It far exceeds the value of any financial investment in a residential neighborhood. Ms. Dougan truly believes we need a lot of financial investment in Broad Street and other areas of our commercial district. If this is so grand an effort to bring something to our City it would have been preferable that this property would have been purchased in an area that could have used a business. It is not taking another property away from us, away from the true texture of what community is. A community is not architecture, not businesses and buildings, it is the people who live here and go through life together. She begs Council to not let this go on this disintegration of our neighborhood giving over to businesses. It is not what Bethlehem is; it is not what we moved here for. People are not moving here for the land value possibilities; they are moving here because it is a fine place to live.

President Waldron announced the ordinance will be placed on the December 4, 2018 Council agenda for First Reading.

Mr. Callahan recalled that someone who spoke tonight mentioned there was a petition by the neighbors. Did we ever receive that petition?

President Waldron remarked it was not received to his knowledge.

Mr. Callahan asked if it was possible to obtain a copy of the petition.

Mr. Reynolds remarked that Council received it originally in April or May 2016. The City Clerk's office might have a copy.

Mr. Virgilio expressed he has the petition, and forward a copy to the City Clerk.

President Waldron adjourned the Public Hearing at 10:30 pm.

President Waldron announced a five minute break at this time before moving on to the business on the agenda. The meeting on November 20, 2018 was recessed at 10:30 p.m.

President Waldron called the continued meeting on November 20, 2018 to order.

2. APPROVAL OF MINUTES

None.

3. PUBLIC COMMENT (on any subject not being voted on this evening - 5 minutes time limit)

Bethlehem Moment

Ed Gallagher, 49 West Greenwich Street, stated he wanted to give a Bethlehem Moment. November 8, 1961. In Berlin, August, 1961 the communists built a wall and in Bethlehem November, 1961 14 young men joined the U. S. Army expanding to meet an escalating international crisis. Before these boys touched a uniform much less a weapon they were dead in a tragic plane crash near Richmond on the way to basic training. Their deaths hit the town hard. They were our neighbors living on Broad Street, Center, Brodhead, etc. They aged 17 to 22 years old. They were boys to us and their high school class pictures stared at us from the obituaries. They lived at home with Mom and Dad. They had nicknames from cowboy heroes and pets that followed them everywhere and girls that did not want them to leave. They had careers on hold. Some had never flown before. We gasped at the terror of the phone that rings in the dead of night. We watched helplessly as hope drained away. We grieved with mothers who ran shrieking from houses, never to be the same again. We shrugged shoulders with fathers who had premonitions of disaster. We were reminded through our shared mourning that we are a town not just a geographically framed collection of individuals. We were reminded that there is no such thing as a "cold" war. Lest we forget these valuable lessons, we erected a monument, which now resides in the Rose Garden.

Environmental Advisory Committee

Lynn Rothman, 870 Wafford Lane, is at this meeting in her role as Chair of the Bethlehem Environmental Advisory Committee and behalf of her fellow EAC Members, Elizabeth Cichonski, Kathy Fox, Jack Gambino, Brian Hillard and Mike Topping. In accordance with the Bethlehem EAC bylaws we submit the following report for the year 2018. Accomplishments for 2018 include reviewed and summarized the obligations of the City's five climate commitments signed by Mayor Donchez. They met and coordinated with Councilman Reynolds, Assistant City Clerk

Robert Vidoni, Director of Public Works, Michael Alkhal and Deputy Director of Public Works, Matt Dorner regarding the City's obligations under the compact Mayor's Climate Agreement and in preparation for a public meeting on the proposed Climate Action Plan. They developed an information sheet on the City's progress regarding climate action, developed a survey for distribution at the CAP public meeting. At the April 5th EAC meeting, the public CAP meeting at Town Hall they presented an update on the greenhouse gas inventory. In May began attending meetings of other EAC's in the Lehigh Valley and surrounding areas to create the ability to work cooperatively and share information and compiled a contact list of all EAC's. At the July Meeting Stephen Repasch, Executive Director of the Bethlehem Authority gave an update on the Authority's projects and workings. They sent a letter recommending the City increase use of renewable energy to 100%. They sent a letter in support of new fire ordinances supporting use of solar panels. At the EAC meeting in August Kate Kebel, Senior Environmental Scientist from the Wildlands Conservancy gave a presentation on the Monocacy Creek Watershed Plan. Ms. Rothman continued to say they created a Waste Reduction Task Force to study and make recommendation to the EAC regarding ordinances that limit or control the use of "single-use" plastic, such as bags and straws, and Styrofoam containers for subsequent recommendation to City Council. In October they created a Community Energy Efficiency Initiative Taskforce focused on residential, commercial and non-profits including low income households. They sent a letter to the new Recycling Director Mike Halbfoerster as an introduction and welcome and to follow-up our 2017 letter requesting recycling containers. In November they sent a letter commending the City for its decision to purchase 100% of its electricity from renewable energy sources beginning in 2019 and giving recommendations for next steps. They established a new Bethlehem EAC Facebook page, participated in meetings of the Monocacy Creek Watershed coalition. They have ongoing efforts of the Bethlehem Backyards for Wildlife (BBFW), a most successful and hardworking subcommittee of the EAC. They had EAC member representation or participation in organizations related to the environment, such as Wildlands Conservancy, Saucon Creek Watershed Association, Monocacy Creek Watershed Coalition, Lehigh Valley Birdtown Coalition, Northampton County Federation of Sportsman's clubs, Pedestrian/Bike Bridge initiative and Sierra Club. They have updated the City website. In April John Brunner resigned as a member of the EAC due to relocation outside the City limits. We thank him for his service. On May 1, 2018 we welcomed Elisabeth Cichonski as a member of the Council. We look forward a full complement of seven members in 2019. Our great appreciation goes to Louise Kelchner, City Clerk, and Robert Vidoni, Assistant City Clerk, for their assistance to the Bethlehem EAC. Ms. Kelchner responds immediately to all of our requests and questions, places meeting notices in the newspaper and facilitates communication between the EAC, City Council and the Mayor's office. Mr. Vidoni's assistance was invaluable in coordinating the ongoing development of the CAP, the April Public meeting and all associated queries. We especially recognize and thank our City Council liaison J. William Reynolds for his assistance and attendance at our meeting, and continued efforts to bring a Climate Action Plan to fruition. We also thank Michael Alkhal and Matt Dorner for their work on the City's greenhouse gas inventory. Our appreciation also goes to City Council and the Administration for their continued support.

President Waldron thanked Ms. Rothman for all she does in her role as Chair of the EAC.

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

Bill No. 31/Article 717-Noises

Bill Scheirer, 1890 Eaton Avenue, stated he thinks there should be more consistency in the hours that various noises are permitted in Bill No. 31 with repealing Article 717-Noises. He is reminded of the fireworks ordinance where we settled on 9 to 9. He added that on page 5 with burglar alarms there is a limit of 6 minutes and if there is any way to shorten that he is sure a lot of people would appreciate it. He mentioned on page 7 with idling it is limited to 15 minutes in a public right-of-way and hopefully that can be decreased substantially. It is also an air pollution issue as well as a noise issue. He mentioned to the Public Safety Committee that Washington D. C. had a problem with tour busses that would bring people to the zoo and then sit on a bridge on a hot day and run their engines for hours. The City then passed an ordinance limiting that to 3 minutes. Mr. Scheirer added that on page 8 you might need an exception for the noise that occurs when a commercial vehicle is backing up. On that same page where it says places of religious worship, it would be a great idea if after the Declaration of Independence is read on the Fourth of July that all Church bells ring for a good period of time, so there should be an exception for that.

5. OLD BUSINESS

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

6. COMMUNICATIONS

C. *Police Chief – Resolution Request – Firearm Purchase*

The Clerk read a memorandum dated November 13, 2018 from Police Chief Mark DiLuzio to which is attached an agreement and Resolution for the purchase of duty weapons by a retired Police Officer of the Bethlehem Police Department. Retired officers purchase their duty firearms at fair market value and according to the Third Class City Code regulations.

President Waldron stated 10 B is on the agenda.

D. *Director of Budget and Finance – Recommendation of Award – KSA&D, Inc. – Website Design & Development, Maintenance & Support*

The Clerk read a memorandum dated November 14, 2018 from Mark W. Sivak, Director of Budget and Finance recommending a contract with KSA&D, Inc. for Website Design & Development, Maintenance & Support. The term of the contract is three years for maintenance and the fee for the contract is \$35,469 for the website design and development and \$87,375 for maintenance and support.

President Waldron stated Resolution 10 C is on the agenda.

E. *City Solicitor – Amendment to Intergovernmental Service Territory Agreement – city of Bethlehem and Northampton Borough Municipal Authority*

The Clerk read a memorandum dated November 14, 2018 from William P. Leeson, Esq., City Solicitor to which is attached a proposed Ordinance and Associated Amendment to an Inter-governmental Service Territory Agreement between the City of Bethlehem and Northampton Borough Municipal Authority that acknowledges the existence of the Agreement dated January 9, 2015 and provides for direct water service to a commercial property situated on the west side of Willowbrook Road in Allen Township pursuant to a Will-Serve request letter of public water service.

President Waldron stated the Ordinance can be placed on the December 4, agenda for First Reading.

7. REPORTS

A. *President of Council*

1. *Councilmanic Appointment –Elizabeth Behrend– Environmental Advisory Council*

President Waldron appointed Elizabeth Behrend to membership on the Environmental Advisory Council to fill the vacated seat of Fran Cundall, effective until January, 2020. Mr. Martell and Mr. Colón sponsored Resolution No. 2018-233 to confirm the appointment.

Mr. Reynolds pointed out that Ms. Behrend has come to many EAC Meetings and will be a fantastic addition. He also wanted to thank Ms. Rothman for her report and all of the leadership she has provided for the EAC. We have our Human Resources and Environment Committee Meeting coming up on December 4th where we will talk more about the Climate Action Plan. He wants to talk about kind of where our EAC was and where it is going partly through the leadership of Ms. Rothman and some of the new board members including Ms. Behrend that have brought new ideas. We are scratching the surface of what the EAC can be and he says that the sky is the limit of where that can go with the cooperation of Council and the Administration and our community.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5.
The Resolution passed.

B. *Mayor*

1. *Administrative Order – Michelle L. Callahan, LPC – Appropriate Mental Health Services Appeals Board*

Mayor Donchez appointed Michelle L. Callahan, LPC to membership on the Appropriate Mental Health Services Appeal Board effective through November, 2021. Mr. Martell and Mr. Colón sponsored Resolution No. 2018-234 to confirm the appointment.

Mr. Callahan stated for the record that he is not related and does not know Michelle Callahan.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5.
The Resolution passed.

2. *Administrative Order – Linda K. Bahner – Appropriate Mental Health Services Appeals Board*

Mayor Donchez appointed Linda K. Bahner to membership on the Appropriate Mental Health Services Appeal Board effective through November, 2020. Mr. Martell and Mr. Colón sponsored Resolution No. 2018-235 to confirm the appointment.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. The Resolution passed.

3. *Administrative Order –Walter S. Diefenderfer – Civil Service Board Alternate*

Mayor Donchez appointed Walter S. Diefenderfer as an alternate to the Civil Service Board effective through October, 2022. This appointment is to replace Lynn Rothman. Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-236 to confirm the appointment.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. The Resolution passed.

Grants

Mayor Donchez thanked Northampton County Executive Lamont McClure. We received two grants from Northampton County, one for \$50,000 dollars for part of the South New Street streetscape improvements and another one for \$15,000 for Holiday Lighting and Décor and planning that we are in the process of doing. He wished everyone a nice Thanksgiving.

C. *Public Safety Committee Meeting*

Chairman Mr. Colón announced the Public Safety Committee met last Tuesday, November 13, 2018 at 6:30 PM in Town Hall. The Committee considered three proposed ordinances. The first to amend Article 717-Noises, the second to amend Article 705 – Disorderly Conduct and the third to amend Article 509 – Enforcement and General Penalty. The Committee voted for all three to full Council and are on the agenda tonight for First Reading. We also had a 911 update.

8. ORDINANCES FOR FINAL PASSAGE

A. *Bill No. 28 – 2018 – Amending Article 1701 – Pennsylvania Uniform Construction Code*

The Clerk read Bill No. 28 – 2018 – Amending Article 1701 –Pennsylvania Uniform Construction Code, on Final Reading.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. Bill No. 28 – 2018 now known as Ordinance No. 2018-25 was passed on Final Reading.

B. *Bill No. 29 – 2018 – Intergovernmental Cooperation Agreement – Cooperative Memorandum of Agreement SR 2020 (Easton Avenue) Multi-Jurisdictional Signal System*

The Clerk read Bill No. 29 - 2018 - Intergovernmental Cooperation Agreement - Cooperative Memorandum of Agreement SR 2020 (Easton Avenue) Multi-Jurisdictional Signal System, on Final Reading.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. Bill No. 29 - 2018 now known as Ordinance No. 2018-26 was passed on Final Reading.

C. *Bill No. 30 - 2018 - Amending the Golf Course Enterprise Fund Budget*

The Clerk read Bill No. 30 - 2018 -Amending the Golf Course Enterprise Fund Budget, on Final Reading.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. Bill No. 30 - 2018 now known as Ordinance No. 2018-27 was passed on Final Reading.

9. NEW ORDINANCES

A. *Bill No. 31 - 2018 - Repeal and Replace Article 717 - Noises*

The Clerk read Bill No. 31 - 2018 - Repeal and Replace Article 717 - Noises, sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, REPEALING AND REPLACING ARTICLE 717 OF THE CODIFIED ORDINANCES OF THE CITY OF BETHLEHEM, TITLED "NOISES"

Mr. Callahan apologized for being able to attend the Public Safety Committee Meeting regarding these ordinances. He does not know the will of Council and how we can resolve what he sees is a bit of a problem. This is a new ordinance and he knows in the old one there was something about sound 40 feet off the property line but he could not find that. His concern is that he has heard from a number of bars on the south side.

President Waldron stated it is on top of page 5 in paragraph 4.

Mr. Callahan remarked in the last year it seems like restaurants and bars on the south side that are on a commercial zone there have been a number of places that have been cited. The way it was read to him is if the noise is heard 40 feet from the property line it is a violation of the noise ordinance. He does not know why some of these bars down there that are allowed to operate their business until 2 am and he does not want them to have excessive noise, but if the door opens up and a police officer can hear noise coming out 40 feet away they are being cited for noise. If they get too many citations, and this what the owners are concerned about, they can then be labeled a nuisance bar. Then the LCB will crack down on them. He does not know what the remedy is but he is hoping that we can table and talk about this to protect the neighbors and also help protect the business owners. He does not know why in the last year and a half there is an excessive amount of tickets down there.

City Solicitor William Leeson does not know if there is an interest in making a change or not. He can say that the LCB code controls in this situation that have precedence for noise purposes. Tolerance is zero. This ordinance does not actually control that situation where it talks

about that 40 foot in any public area, street or sidewalk, when the sound source is in any public area, street or sidewalk. It does not mention that the source is from a bar. So the general prohibition of a noise disturbance is the standard that would apply with respect to sound emanating from a bar. The rule is under the LCB which controls over this, is the sound tolerance is zero. So if they are being allowed any tolerance for sound emanating from the building they are getting a bonus. Aside from all that you can integrate a fix into the ordinance that would accommodate the bars and the sound and give them some tolerance beyond the premises. Solicitor Leeson does not know what the solution would be but if you want to put that into your ordinance then you also have the mechanism and the option to go to the LCB and ask that this ordinance be exempted from the LCB code. You can pass a local ordinance affecting the bars and ask the LCB to approve this ordinance so that they will not enforce the LCB noise regulation on those bars. So you would be talking about solution A in your ordinance and B getting an exemption from the LCB from that zero tolerance. That may take some doing and discussion.

Mr. Callahan stated it is not the LCB doing the citing, it is the Bethlehem Police. He would like to table this if possible and come up with some type of fix in this to protect some of these businesses who are not doing anything different that they have done in the last 15-20 years, yet they are being cited. His other question is that if you want to talk about noise solution there is Main Street where there are many motorcycles driving up and revving their engines and people with loud music in their cars while people are outside eating. We just spent three hours worrying about the historic district and this is the heart of our historic district and people are on Main Street having a nice dinner outside and have to put up with all of this noise from the traffic. He sees the same cars going by with windows down blasting music and motorcycles going by revving their engines.

President Waldron noted we will need more information on this. We can pass this under First Reading and before the Second Reading we can figure it out or we just table it and retackle it. He asked if there is a time pressing for this.

Police Chief Mark DiLuzio stated he and Matt Deschler are looking at a few of the things from the Public Safety Meeting and we are in no hurry.

President Waldron explained we can push this to after the holidays to maybe February of next year so they can work on this.

Council Solicitor John Spirk stated if we postpone this we can bring it back if we pick a date, something like the first meeting in February.

President Waldron explained the first meeting in February would be February 5, 2019.

Mr. Callahan and Mr. Colón made the motion to postpone Bill No. 31-2018 – Repeal and Replace Article 717- Noises until February 5, 2019.

Voting AYE on postponing Bill No. 31-2018 to February 5, 2019: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. Bill No. 31 – 2018 was postponed until February 5, 2019.

B. Bill No. 32 – 2018 – Amending Article 705 – Disorderly Conduct

The Clerk read Bill No. 32 – 2018 – Amending Article 705 – Disorderly Conduct, sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, AMENDING ARTICLE 705 OF THE CODIFIED ORDINANCES OF THE CITY OF BETHLEHEM, TITLED "DISORDERLY CONDUCT"

Mr. Callahan and Mr. Colón made the motion to postpone Bill No. 32-2018 - Amending Article 705 - Disorderly Conduct until February 5, 2019.

Voting AYE on postponing Bill No. 32-2018 to February 5, 2019: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. Bill No. 32 - 2018 was postponed until February 5, 2019.

C. *Bill No. 33 - 2018 - Amending Article 509 - Enforcement and General Penalty*

The Clerk read Bill No. 33 - 2018 - Amending Article 509 - Enforcement and General Penalty, sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, AMENDING ARTICLE 509 OF THE CODIFIED ORDINANCES OF THE CITY OF BETHLEHEM, TITLED "ENFORCEMENT AND GENERAL PENALTY"

Mr. Callahan and Mr. Colón made the motion to postpone Bill No. 33-2018 -Amending Article 509 - Enforcement and General Penalty until February 5, 2019.

Voting AYE on postponing Bill No. 33-2018 to February 5, 2019: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. Bill No. 33 - 2018 was postponed until February 5, 2019.

D. *Bill No. 34 - 2018 - Adopting the 2019 General Fund Budget*

The Clerk read Bill No. 34 - 2018 - Adopting the 2019 General Fund Budget, sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, ADOPTING
THE GENERAL FUND BUDGET FOR 2019

Mr. Callahan stated he will temporarily vote no on this until all of the budget hearings are finished.

Voting AYE: Dr. Van Wirt, Mr. Colón, Mr. Reynolds and Mr. Waldron, 4. Voting NAY: Mr. Callahan, 1. Bill No. 34 - 2018 was passed on First Reading.

E. *Bill No. 35 - 2018 - Adopting the 2019 Water Fund Budget*

The Clerk read Bill No. 35 - 2018 - Adopting the 2019 Water Fund Budget, sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, ADOPTING
THE WATER FUND BUDGET FOR 2019.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5.
Bill No. 35 - 2018 was passed on First Reading.

F. *Bill No. 36 - 2018 - Adopting the 2019 Sewer Fund Budget*

The Clerk read Bill No. 36 - 2018 - Adopting the 2019 Sewer Fund Budget, sponsored by
Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, ADOPTING
THE SEWER FUND BUDGET FOR 2019.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5.
Bill No. 36 - 2018 was passed on First Reading.

G. *Bill No. 37 - 2018 - Adopting the 2019 Golf Course Enterprise Fund Budget*

The Clerk read Bill No. 37 - 2018 - Adopting the 2019 Golf Course Enterprise Fund
Budget, sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, ADOPTING
THE GOLF COURSE ENTERPRISE FUND BUDGET FOR 2019.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron 5.
Bill No. 37 - 2018 was passed on First Reading.

H. *Bill No. 38 - 2018 - Adopting the 2019 Liquid Fuels Fund Budget*

The Clerk read Bill No. 38 - 2018 - Adopting the 2019 Liquid Fuels Fund Budget,
sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, ADOPTING
THE LIQUID FUELS FUND BUDGET FOR 2019.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5.
Bill No. 38 - 2018 was passed on First Reading.

I. *Bill No. 39 - 2018 - Adopting the 2019 Capital Budget for Non-Utilities*

The Clerk read Bill No. 39 – 2018 – Adopting the 2019 Capital Budget for Non-Utilities, sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, ADOPTING
THE 2019 CAPITAL BUDGET FOR NON-UTILITIES.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5.
Bill No. 39 – 2018 was passed on First Reading.

J. *Bill No. 40 – 2018 – Adopting the 2019 Capital Budget for Water Utilities*

The Clerk read Bill No. 40 – 2018 – Adopting the 2019 Capital Budget for Water Utilities, sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, ADOPTING
THE 2019 CAPITAL BUDGET FOR WATER UTILITIES.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5.
Bill No. 40 – 2018 was passed on First Reading.

K. *Bill No. 41 – 2018 – Adopting the 2018 Capital Budget for Sewer Utilities*

The Clerk read Bill No. 41 – 2018 – Adopting the 2019 Capital Budget for Sewer Utilities, sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, ADOPTING
THE 2019 CAPITAL BUDGET FOR SEWER UTILITIES.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5.
Bill No. 41 – 2018 was passed on First Reading.

L. *Bill No. 42 – 2018 – Adopting the Community Development Block Grant Budget for 2019*

The Clerk read Bill No. 42 – 2018 – Adopting the Community Development Block Grant Budget for 2019, sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, ADOPTING
THE COMMUNITY DEVELOPMENT BLOCK GRANT
BUDGET FOR 2019

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5.
Bill No. 42 – 2018 was passed on First Reading.

M. *Bill No. 43 – 2018 – Adopting the 2019 9-1-1 Fund Budget*

The Clerk read Bill No. 43 – 2018 – Adopting the 2019 9-1-1 Budget, sponsored by Mr. Colón and Dr. Van Wirt and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, ADOPTING
THE 9-1-1 FUND BUDGET FOR 2019.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5.
Bill No. 43 – 2018 was passed on First Reading.

N. *Bill No. 44 – 2018 – Fixing the 2019 Tax Rate for All City Purposes*

The Clerk read Bill No. 44 – 2018 – Fixing the 2019 Tax Rate for All City Purposes, sponsored by Mr. Colón and Mr. Reynolds and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, FIXING
THE TAX RATE FOR ALL CITY PURPOSES
FOR THE YEAR 2019.

Mr. Callahan advised for the same reason he stated before he will be voting no.

Dr. Van Wirt stated she will also be voting no because she is uncomfortable without having reviewed it first and talked about it.

Solicitor Spirk stated we need 4 votes to pass it and it has to pass twice.

Dr. Van Wirt informed she is not trying to be obstructionist but she would like to state for the record that she will vote for this to move the process forward in the efforts of efficiency and not in substance.

President Waldron noted our last vote on this will be the last vote of the year and the December 18th Council Meeting. So we will have reviewed all of the Department budgets by then and discussed the actual millage and tax increase and where that money goes to.

Mr. Reynolds noted that idea of voting on the budget ordinances without prejudice is something that has been done before.

President Waldron noted we need 4 votes and with our short team here every vote really matters.

Voting AYE: Dr. Van Wirt, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 4. Voting NAY: Mr. Callahan, 1. Bill No. 44 - 2018 was passed on First Reading.

10. RESOLUTIONS

A. *Authorizing Records Destruction – Fire Department*

Mr. Martell and Mr. Colón sponsored Resolution No. 2018-237 that authorizes the disposition of the public records in the Fire Department as stated in the attached Exhibit A.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. The Resolution passed.

B. *Approving Firearm Purchase - Repsher*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-238 that authorized to execute an agreement to effectuate the transfer of the City issued handgun assigned to Todd Repsher, retired City Police Officer.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. The Resolution passed.

C. *Authorizing Contract – KSA&D, Inc. – Website Design & Development, Maintenance & Support*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-239 that approved a contract with KSA&D, Inc. for Website Design & Development, Website Maintenance & Support.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. The Resolution passed.

Motion – considering Resolutions 10 D through 10 I as a group

Mr. Callahan and Dr. Van Wirt moved to consider Resolutions 10 D through 10 I as a group.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. The Motion passed.

D. *Certificate of Appropriateness – 266 East Wall Street*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-240 that granted a Certificate of Appropriateness to replace the rear/side exterior wood stair at 266 East Wall Street.

E. *Certificate of Appropriateness – 531 Main Street*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-241 that granted a Certificate of Appropriateness to install signage in two locations at 531 Main Street.

F. *Certificate of Appropriateness – 79 West Market Street*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-242 that granted a Certificate of Appropriateness to install a 12" x 30 1/2" wood panel sign at 79 West Market Street.

G. *Certificate of Appropriateness – 428-444 Main Street*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-243 that granted a Certificate of Appropriateness to install signage on the Book Shop Façade at 428-444 Main Street.

H. *Certificate of Appropriateness – 30 East Wall Street*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-244 that granted a Certificate of Appropriateness to add a 6' lattice fence in the backyard, replace wood bilco doors with metal locking bilco doors and change paint color on bottom of shutters and bottom half of the side porch at 30 East Wall Street.

I. *Certificate of Appropriateness – 403 Center Street*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-245 that granted a Certificate of Appropriateness to replace the roof at 403 Center Street.

Voting AYE on Resolutions 10 D through 10 I: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. The Resolutions passed.

11. NEW BUSINESS

A. *Setting Date for Adoption of the 2019 Budget*

President Waldron stated he will accept a motion to set the date for adoption of the 2019 Budget on Tuesday, December 18, 2018 at 7:00 pm in Town Hall.

Mr. Callahan Mr. Colón and made the motion.

Voting AYE: Dr. Van Wirt, Mr. Callahan, Mr. Colón, Mr. Reynolds, and Mr. Waldron, 5. The Motion passed.

Third Budget Meeting/Fourth Budget Meeting

President Waldron announced the Third Budget Meeting is scheduled for Monday, November 26, 2018 at 6:00 PM in Town Hall on the following Budgets: Recreation Bureau, Golf Course Enterprise Fund, Administration, General Fund Revenue, General Fund Expenditures, General Fund Expenses, and Debt Service.

President Waldron announced the Fourth Budget Meeting is scheduled for Monday, December 3, 2018 at 6:00 PM in Town Hall on the following Budgets: Water Fund Revenue and Expenses, Water Capital Budget, Sewer Fund Revenues and Expenses, Sewer Capital, Community Development Block Grant, and Community and Economic Development Department.

President Waldron stated on behalf of City Council he would like to extend best wishes to everyone for a Happy Thanksgiving.

12. ADJOURNMENT

The meeting was adjourned at 11:15 p.m.

ATTEST:

City Clerk