

BETHLEHEM CITY COUNCIL MEETING  
10 East Church Street - Town Hall  
Bethlehem, Pennsylvania  
Tuesday, December 4, 2018 - 7:00 PM

INVOCATION

Pastor Hopeton Clennon, Central Moravian Church, offered the Invocation which was followed by the pledge to the flag.

PLEDGE TO THE FLAG

1. ROLL CALL

President Waldron called the meeting to order. Present were Bryan G. Callahan, Michael G. Colón, Shawn M. Martell, Olga Negrón J. William Reynolds, Paige Van Wirt, and Adam R. Waldron, 7.

CITATIONS

*Honoring Louis Cszaszar*

President Waldron stated that the Citation for Louis Cszaszar on the occasion of his retirement from the Bethlehem Police Department after 20 years of service will be mailed to him since he was unable to attend this evening.

*Honoring Frank Dashner*

President Waldron stated that the Citation for Frank Dashner on the occasion of his retirement from the Bethlehem Fire Department after 31 years of service will be mailed to him since he was unable to attend this evening.

*Honoring William J. Ferry*

President Waldron stated that the Citation for William J. Ferry on the occasion of his retirement from the Recycling Bureau after 31 years of service will be mailed to him since he was unable to attend this evening.

2. APPROVAL OF MINUTES

The Minutes from November 7, 2018 and November 20, 2018 were approved.

President Waldron noted that the minutes of November 20, 2018 were a huge undertaking as public comment took over two and a half hours that evening and a lot of work went into those minutes and we appreciate our City Clerk's office for handling those.

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

*The Passing of Eric R. Shimer*

Michael Santanasto, 402 High Street, informed it is with great sorrow that he announces the passing of Eric R. Shimer on Sunday, November 25, 2018. He informed Mr. Shimer, who possessed a keen sense of citizenship and duty, first and foremost to the City of Bethlehem, was a model and lifelong citizen of the City of Bethlehem but for a tour of Southeast Asia in the late 1960's. He was born and raised in Bethlehem, attended Liberty High School and Moravian College, and enrolled at Villanova Law School where, during his first year, he was drafted for duty in Vietnam. While in Vietnam he saw heavy combat and became known for his accuracy and proficiency in the use of an M79 Grenade Launcher. Mr. Santanasto reported that Mr. Shimer was severely wounded, recuperated and mended his physical wounds over the course of months. Mr. Shimer was awarded many commendations for his service, and spent the remainder of his life dealing with his and helping other combat Veterans heal from their emotional wounds. In his own words: "Worse than the physical pain is the emotional pain. The normal reaction to the violent death of a buddy is first to feel shock, then numbness, and then grief. The worst reaction comes last and continues for a very long time; guilt. For what? For being alive when others, who are just like you, are taken by violent death." Mr. Shimer continued his education, was awarded a Juris Doctorate, passed the Pennsylvania bar exam, and began practicing law in Bethlehem under the tutelage of Raymond Haggerty. Mr. Santanasto highlighted Mr. Shimer's civic endeavors included the Korea-Vietnam Veterans' Memorial, Veterans advocacy matters, the Northampton County Home Rule Charter Commission, the Honor Guard and the Jaycees amongst others. Mr. Shimer also volunteered as a substitute teacher and was active whenever he was needed for Veteran's Day and Memorial Day activities throughout the Bethlehem Area School District. He retired from the practice of law in 2012 although he continued many of his civic engagements. Mr. Santanasto continued on to say that Mr. Shimer lived an ethical, moral, upstanding life which deserves recognition that he would never seek out because rightly so, he does not need the recognition. He concluded expressing this is more of a remembrance for those who knew him, and a reminder for those who did not, of a civic life well lived in the City of Bethlehem.

*Bethlehem Moment*

Ed Gallagher, 49 West Greenwich Street, explained he would like to read another Bethlehem Moment. He explained that he is undertaking a kind of pilot project of introducing a moment of Bethlehem history at the introduction of each Council Meeting. He will do this for several months maybe on his own and then if it seems to be going well he will ask Council to perhaps consider making the Bethlehem Moment a part of the introduction of Council Meetings. Prayer, Pledge, Past, this seems to him to be a natural continuum there at the beginning of a meeting of invoking the three areas that should frame our discussions at City Council. He related he has a packet outside Council Chambers with the three Bethlehem Moments so far, and they are on the Bethlehem Gadfly website. He then presented Bethlehem Moment number three "Ya Can't Beat City Hall". On November 4, 1958, an "aroused city" of Bethlehem did just that. Forty years after its birth, the Bethlehem Junior Chamber of Commerce mounted a campaign to establish a Charter commission to study and possibly change our form of local government. Our entrenched Democratic City Council at that time, realizing their power was at stake, vigorously fought this challenge to their existence, smelling the hidden hand of a "ivory towered" newspaper editor; raising the spectre of dictatorship; arguing widespread satisfaction with the status quo; meddling by the Jaycees, who many not even be taxpayers; and voting by Commission members

who “might now know the difference between forms of government and a groundhog hole.” That editor, the legendary John Strohmeier, lashed out at this “flagrant abuse of political power” aimed at perpetuating a “spoils system,” the Jaycees worked the public door-to-door, and in a turnout higher in some sections than the 1956 presidential election, the entire no-partisan Jaycee slate was elected to the Commission. On November 4, 1958, “political novices” tapped the power of democracy, reminded “the machine” where the power ultimately lies, took control of their own destiny, and started a process that gave us our current Mayor-City Council form of government.

### *South Side History*

Stephen Antalics, 737 Ridge Street, mentioned one of the key elements of this history of the southside was the Old Market House. It was very popular and it served the whole community and communities outside of Bethlehem because it was a classic market house. It went into disrepair and it was deemed to be destroyed. Developers were interested. But one woman fought very hard to preserve it. She was overruled and the Market House on Third Street never became what the market could have been like the Reading Terminal Market in Philadelphia. The Reading Terminal Market was doomed to be destroyed but now it is famous. Going through the records and Council Minutes he was quite taken by the roles of two other Council Members, Maggie Szabo and Jean Belinski. What struck him was that they were very concerned with community welfare and they put politics aside and looked at the health of the community and people involved in the community. Mr. Antalics noted there is a woman in California who, some time ago, was on the Board of Commissioners and she tried to put through a motion that the areas way back then, which were under fire, should not be ever developed again. He remarked on two occasions at City Council, the vote was 5-2 and the two votes happened to be women and he was impressed with the way they speak on issues which concern the welfare of the community. He was wondering what is happening here and why this is a gender thing. He gave it more thought and remembers many years ago he read that if mothers raise their children by patriotic standards, societies we know today would not exist. If you translate that to street level, you come up with the idea that men take lives to preserve law and women break laws to preserve life. Mr. Antalics explain what he is trying to say is that it seems that the women in politics are acting as caretakers. He noted if there is a vacancy again on Council again it might be wise to appoint a woman and maybe then some of the male members might get the idea and start voting along with the women because they exhibit a great care for the community.

### *Neighbor Harassment*

Ernesto Mendez, 522 Fifth Avenue, referenced an email to Council from his next door neighbor who continues to complain about him living there and running his business out of there. He does plumbing for a living and has lived there for almost four years. He expressed in the last year the lady who lives next door to him has not only harassed him, but has stalked him. Mr. Mendez pointed out he had to hire a lawyer in order to address these issues. He was called today by the City telling him that she continues to send emails to Council saying that he is doing something wrong and illegal. He explained, she has asked him in the past to do a job for her and he refused to because of living next to his neighbors. She has also been on the roof of his garage and Mr. Mendez has told her numerous times not to do this because if she falls he will be responsible insurance wise. He further stated this neighbor continues to drive around the neighborhood looking for his car to see if he is living there or if he is there. Mr. Mendez informed that Attorney Haber who is his attorney now has called Suzanne Borzak in the City and asked for

information so we can address this issue with this lady. He does not know what else to do. He has been living in that neighborhood; he was adopted when he was 13 years old by Tom and Landa Mohr who owned the Third Street Chicken and Ribs on the south side. He loves that neighborhood he grew up in and that is why he decided to buy a house on Fifth Avenue. Mr. Mendez is here to ask Council for help to see what he can do about this neighbor who continues to harass him.

President Waldron informed Mr. Mendez that Council received a response today from Ms. Borzak stating that he is not in any violation, informed Police Chief DiLuzio is here and available to speak with him after the meeting.

*ADA Doors*

Martin Romeril, 26 West Market Street, noted at the November 4, 2015 City Council Meeting he pointed out that the electric ADA doors to enter the building were not functioning. He came to another meeting in June of 2016 and the doors still did not work. They did get fixed eventually but he regrets to point out that they do not work now and they did not work last month. Mr. Romeril explained at the last meeting, when his father was struggling to open the doors while he was parking the car, he told him the doors do not work and he could not believe this is happening again. He does understand when a lightbulb burns out that is obvious to everyone because the room is dark, but attention needs to be paid to these doors. Mr. Romeril knows a lot of meetings that happen in the rotunda start before 4:30 so the doors are locked for security reasons and everyone has to go through the front door. Again, people do not get to check whether that door works and it is easy to exit by leaning on the door. Those doors need to be fixed. He remarked sometimes it seems like maintenance is not in the forefront of everyone's mind, but please attend to that maintenance issue.

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

*Bill No. 46 - 2018 - Zoning Text Amendment - Section 1304.04 - Reuse of Corner Commercial Uses Allowed in the RT and RG Districts*

Susan Glemser, 2132 Sycamore Street, commented she is formally Susan Schadt and lived at 2 West Market Street. She is in favor of Quadrant Private Wealth to allow his business at 2 West Market Street and 511 North New Street locations. This property has always been a non-conforming lot, but the City never changed the status since her family bought the lot in 1976. Originally the Brass Works business was built on this lot in 1840 and later a house was added. Ms. Glemser asserted this lot has been a mixed use property for 178 years. She does not believe that zoning restrictions should ever have been applied to this lot as it is not purely residential. This lot is not able to be subdivided. The garage has an apartment above it; the structure is three to four feet from the green buildings. They share infrastructure between them and it is difficult to find a place to put snow when it is to be cleared. Ms. Glemser noted the main building is three to four feet from the green commercial buildings and it does not meet any present setback zoning restrictions. The block is by far commercial. The opposition points to the south side of the block as partial residential, three homes, town houses, apartments and businesses, but the remaining three sides of the property are businesses in downtown Bethlehem. We contacted three banks in

2013 for the mortgage quotes and were informed by Bank of America, Embassy and Lafayette Ambassador Bank that this lot is a commercial real estate lot. The house and the buildings could not be split into different loans. The banks had determined that this lot is a commercial real estate property. The commercial real estate mortgage rates are usually 3 to 4% higher and have shorter terms than residential rates, depending on the loan. Who would happily pay a commercial mortgage rate for a residence in downtown Bethlehem? That buyer, in her experience does not exist. Chubb appraised this house for \$1.9 million comprehensive replacement value in 2013 and Dorey Real Estate listed it for \$800,000 dollars; it sold for \$550,000 dollars. It has been a financial hardship. Please refer to the letter submitted by our real estate representative Nancy Alhum. The house was placed on the market on 5/10/2013 and finally sold 7/12/2014, one year later. The family was informed that this would be a hard property to sell and that proved to be the case. Ms. Glemser advised a residential home on the same block took over two years to sell and that home was formerly the historic store which was a business and became a residence and should have been able to go back to being a business again technically. We are thrilled to find an energetic buyer who wanted to preserve the property's integrity. Please do not discount their multiple concessions to the City and neighbors in order to limit traffic and signage. The Rij's have painstakingly preserved both the outside, important to the City for tourists and property values, and the inside of the house. They have not gutted the inside or changed the integrity of the lot. Ms. Glemser noted in her opinion, if the City votes against Quadrant, the house would be gutted and turned into residential rehabs or low income housing. You have a commercial mortgage and you have to make income, it will not be a residence. The green buildings Brass Works are historic. The cost to maintain them is significant. The rental income for 2013 was about \$13,000, the Fritch Fuel bill in 2013 was close to \$4,700 dollars. She pointed out that these buildings are not insulated. The expenses were over \$17,000 for just the green buildings to maintain them. Painting every five years and pouring a new west side foundation created no room for profit. These old wooden buildings require maintenance every year. As Quadrant indicated a \$400,000 estimate has been received to make the green buildings safe and functional; after all, they were built in 1840. Without ongoing yearly cash the buildings will quickly decay. What residential owner will submit to this willingly? The opposition does not want to recognize this commitment or any commitment on maintenance for that matter. Ms. Glemser remarked it is easy to forget the building's fate without business resource. She does not believe that a single family home buyer will come forward if City Council does not allow a special exception since the financial expenses do not make sense. It could be gutted inside and made into apartments; it is already zoned for at least eight cars. Perhaps a drug rehab that is a residential commercial enterprise could occur once Moravian Middle School relocates. What dilemma will the next owner face when they want to sell? Ms. Glemser believes the present owner is ideal. If Quadrant is forced to sell, the City and downtown will get something less desirable or simply a vacant building just like Farr's was or just like the Bethlehem Club was until her husband bought the building. Ms. Glemser believes that the neighborhood did vote on this project. A copy of the residential signatures was submitted and it far outnumbered the few that are against the project. She heard that there were only 12 against the project. She believes that they fear that the zoning rule will deteriorate this narrow zoning rule exception. Ms. Glemser does not believe this is a reasonable conclusion. She guesses they believe it is better to discard this property as collateral damage in favor of all residential zoning. She would then ask why are not the law offices collateral damage or why was not Alice Knauss's house collateral damage, why was not 10 West Market Street collateral damage? Ms. Glemser reiterated this property was always mixed use and queried does the historic zoning apply. The City should vote in favor of Quadrant, the lot should allow commercial use due to its historic misuse zoning status. Commercial mortgage rates,

maintenance expenses and the performance of Quadrant as a good neighbor for historic Bethlehem are all important. They are wonderful caring neighbors for downtown and the lot will be further restored and maintained for years to come, which would be a win for all.

Bill Fitzpatrick, 1136 Beverly Avenue, expressed he is the current Chair of the Zoning Hearing Board. At the recent public comment his predecessor Mr. Loupos spoke, and like him, Mr. Fitzpatrick would like to speak in favor of the text amendment. While he is not representing the Zoning Hearing Board here, he would like to speak about the people who serve on that Board and process which it has followed in deliberations. Mr. Fitzpatrick stated the members of the Zoning Hearing Board are nominated or appointed by the Mayor and confirmed by Council. We are all citizens of Bethlehem. He would say that the people who he has served with over the years have the greatest concern for the integrity and welfare of the City of Bethlehem. That he believes serves as the underpinning for the discussions that occur. It is not unusual for a request for use variances to be brought before the Zoning Hearing Board. In fact, it is a right afforded by the zoning ordinances. It is his belief that commercial interests can be good neighbors in a residential area. Mr. Fitzpatrick then commented on what occurs at the Zoning Hear Board meetings. The appellant makes a presentation to the Zoning Hearing Board. The opportunity to question is afforded to the members of the Board and then to members of the audience speaking in favor or in opposition. The same opportunity to present testimony is then afforded to people in the audience followed by much the same process after which deliberation is made by the Zoning Hearing Board Members. To his knowledge there has never been a case where a decision had not been rendered the very same evening, only on rare occasions where we were interviewing detailed briefs. The reason he mentions this is that he believes the lightning rod for this whole thing is 2 West Market Street and the last decision rendered by the members of the Zoning Hearing Board. He will point out that he was not a member of that panel; he chose to recuse himself as he will in any future dealings on this property. He does however support the decision that was rendered by the Members of the Zoning Hearing Board who are citizens of Bethlehem. He believes they have a far better perspective on what is good for our City and they have a far greater caring for the City than does a judge or a panel of judges sitting in Harrisburg. Mr. Fitzpatrick explained to that extent he would say that in the deliberations or the presentations to the Zoning Hearing Board we hear things and promises that are made. Decisions are rendered and conditions are many times attached but there is a bit of a leap of faith that all of these things will occur. The advantage that you have right in front of you now as you look at this text amendment is that you do not have to surmise what might occur. You can walk roughly one block down and take a look at this property. Mr. Fitzpatrick would ask Council to use their senses, tell him if it is good or bad for the neighborhood. We have heard about potentially unintended consequences of adopting the text amendment and he would ask Council to consider the unintended consequences of denying it. Mr. Fitzpatrick pointed out that he sat through the public hearing and he can say he was dismayed at what he thought was a series of threats of legal action by a group if they did not get their way. The right to appeal a decision is a right afforded to any of the citizens, any of the appellants. He would encourage Council to vote based on your facts, your conscience and do not be intimidated by someone trying to bully you by threatening you with lawsuits.

Tim Stevens, law partner at the law office of Davis & McCarthy at 645 Hamilton Street, Allentown, remarked he has handouts for Council and he asks that these be added to the 11 exhibits he submitted at the public hearing. Attorney Stevens remarked the first exhibit is from Alan Lowcher; a city planning Attorney, and he has provided a letter that is marked as Exhibit 13.

That letter outlines how the amendment violates the provisions of the zoning ordinance and he further comes to the conclusion how this amendment is contrary to the residential purposes found in the RT and RG districts. He continued to say Exhibit 14 is a letter from Dr. Karen Beck Pooley who has her PHD in City Planning and she is a professor at Lehigh University, and she spoke at the Public Hearing. She outlines in her letter in Exhibit 14 how the amendment is inconsistent with the corner lot provisions 1304.04 and she further says that the language and the purpose of the amendment are ill-defined and the amendment has not been publicly vetted through the City Planning Administration and therefore Council should vote no. Attorney Stevens explained in response to the earlier comments there certainly is not a threat with respect to legal action that is anything but for the good faith purpose of providing for the welfare of the citizens of Bethlehem. The Zoning Hearing process has been looked at very carefully through the unanimous panel of the Commonwealth Court and the Commonwealth Court gave their founding conclusion based upon the evidence of that record that this residential property, the house at 2 West Market Street has been used as a residential property for over 100 years. There is no good reason for it to be used for anything other than that. We ask that this City Council comes to the same conclusion as he put it at the public hearing; there is a complete and utter lack of evidence as far as the ultimate impact of this particular zoning amendment. He noted to turn to their Exhibit 12 where he is essentially responding to Darlene Heller's recent memo to President Waldron and City Council. In that memo it addresses Attorney James Preston's review of the four properties and it is our position that Ms. Heller's conclusions in that are flawed. She tried to come to the conclusion that the properties simply do not apply to the amendment. However, she takes language from the amendment which is the single family dwelling language and tries to tack on to say that it just applies to single family detached dwelling. Attorney Stevens noted that is simply not the case. Single family dwelling is general and vague. If you look at the definition of the single family dwelling under 1302.39 there really are three different categories for single family dwelling. The first category is a Single Family Detached Dwelling; however there are two other categories, Single Family Attached Dwelling and a Single Family Semi-Detached Dwelling. So there are two other categories along with the attached dwellings that fall under the scope of this amendment. He asserted it is our position that not only will there be a legal challenge as far as the validity of this amendment because it is so flawed for the five different reasons he pointed out at the Public Hearing, we also have concerns that there will be legal challenges by the actual property owners who are falling under these other categories, the Detached Single Family Dwellings, the Semi-Detached Single Family Dwelling as well as Attached Single Family Dwellings under the general language of this particular zoning amendment. Attorney Stevens expressed the key issue here is that the zoning amendment has not been properly vetted by the City Planning Commission and it opens the door for the concern that was raised at the public hearing. He believes that Dr. Van Wirt pointed out that can this particular amendment be construed with a Single Family Dwelling, a home with a family living in the upper floors and a commercial property on the lower floors can be converted under this statute to turn the whole property of residential districts to a commercial property. That still exists and we submit that the rationale and the conclusions being drawn by Ms. Heller with the eight property review submitted by Attorney Preston is indeed flawed. Attorney Stevens informed what we can agree to here is that there has been no extensive analysis by the City Planning as to the true impact of this. We call Ms. Heller's initial memo to City Council indicating that the impact is unclear of how many properties will be affected. The end result of this amendment is unclear. She said that in her memo and that remains. Attorney Stevens added as he said his comments at the Hearing the burden has not been met by the petitioner, by Attorney Preston to establish what the true

impact of this amendment will be and therefore it would be truly irresponsible for City Council to pass this. He urges Council to vote no.

Steve Diamond, 425 Center Street, noted that Council has previously received his letter and thoughts. However, he wants to be on the records so your individual votes will be clear to the citizens of Bethlehem that you are cognizant of the danger of a yes vote. What he presented in his letter is nothing less than the imminent destruction of our zoning ordinance for the benefit of one individual. This is not good practice for a City to work this way. This is not about Mr. Rij and Morning Star. This is about the future precedent to allow one individual, whoever that is, to change zoning ordinances anywhere in the City. You cannot abdicate your vote to the Zoning Hearing Board by voting yes and simply wash your hands with this petition. You will be setting a precedent with the acceptance of this petition. As stated by 1301.03 the petitioner has not presented any public health, safety and general welfare for the City of Bethlehem. Therefore, a yes vote by you will be setting a very low bar for this following scenario. Mr. Diamond mentioned if Barbara and I come before you using amendment 1326, no different than they had done with our own change in the zoning ordinance that is particular to us. We go through hearings at the LVPC and BPC since that is our right to do that. He will ask for textual change to 1304 that follow the same spirit of the existing ordinance the same way Morning Star claims in their text amendment. We will propose 1304 (c) defining our change depending on the previous special exceptional use as Institutional, an assisted living home. That is what our house was. He will ask for commercial designation using this change and I will tell you that I did an extensive study and the study affects nobody. I will tell you that I want to put my wealth management company there. I have put a lot of money into the house with the best contractors doing the rehabilitation of the property. We have a corner property and we plan to move upstairs in a single family unit and use the downstairs for an office. We probably could alternatively now use the Morning Star suggested change to go to zoning. Mr. Diamond stated is also a good guy, gives money to non-profit organizations, eat at restaurants downtown, has coached Little League Baseball and Soccer, our six children went to Moravian Academy, helped build the campus at Muhlenberg Hospital and pay City business tax. He will even bring people in for testimony if you ask. He questioned how is he different from Morning Star in redefining our ordinance. Mr. Diamond explained his home was an assisted living home, a business in 2000. He does believe there was never a business at 2 West Market Street. He queried how do you pick one application over the other and explain how you would choose, how do you discriminate or do you allow favoritism and political pressure to decide. Mr. Diamond noted this could open the City Council to lawsuits of discrimination. Think of the time and money wasted to defend your decisions. He stated he has another possibility. After you change the ordinance for the corner store for Morning Star what stops Mr. Brew, with his Airbnb, from doing the same thing. He has the same law firm for representation. He has two corner properties currently operating an Airbnb. What stops him from petitioning the City Council that he wants to change the Schweder House as a corner store property. The change in ordinance could state that he has been doing commercial transactions just like Mr. Rij. It is across from the municipal building and across from a corner store. How about petitions for his corner property across from the funeral home and nursing facility on 191? He states he is functioning as a commercial entity although illegally and wants relief at the corner property. His attorney writes a new amendment to the corner store ordinance. What do you do? You have already set a very low bar for comparison. You cannot tell him that you will stop it because you just will not let this happen. Mr. Diamond is asking Council to take into consideration the City Council, Bethlehem Planning Commission and Zoning Hearing Board change personnel all of the time. You cannot control the future; there will be no way you can

guarantee an outcome. In short, you are destroying zoning. The City Council should not vote for the Morning Star petition. It has nothing to do with what you think about them. It has to do with opening the flood gates to a procedural request that will destroy zoning in general. Once you say yes to one application how do you say no to the others? How do you defend a rationale that has no benefit to the City of Bethlehem?

Beall Fowler, 409 Center Street, noted that he also sent letters to all on Council. He will repeat some of his comments here at this meeting. This text amendment for conversion of 2 West Market Street to office use should be decisively rejected for a number of reasons. First, the general reason is that conversion of residential use to commercial use in any residential district is bad policy since it erodes the fundamental character of the residential neighborhoods that make them strong and vibrant. The historic district neighborhood is particularly vulnerable to such attempts and is currently under assault, not only by this project, but by illegal hotels masquerading as Airbnbs, and the homeless shelter that operates for a third of the year in the midst of residences. Mr. Fowler noted the attempt to convert 2 West Market Street from residence to office use was properly denied twice by the Zoning Hearing Board, so they did the right thing the first two times and then they slipped the third time. It was denied once by County Court and twice by Commonwealth Court. The end run petition was not supported by the Bethlehem City Planning Commission and it is not being presented to you with the public support of the City Administration. The eloquent comments about the difficulty of marketing this project he appreciates. A difficulty however, is not a sufficient reason for the radical change that is being requested. Mr. Fowler believes that with the combination of proper pricing and creative thought and patience, this property could have continued as mixed use or even as completely residential. Contrary to what you have heard over and over again is that this property was not always mixed use. If you look at the Sanborn insurance maps from the late 1800's you will see that those green buildings were dwellings, all of the buildings at that site were being used as dwellings. He does not know what kinds of dwellings, but the insurance maps made it quite clear that they were dwellings during a period of time, at least 10 or 15 years around the turn of the century. So there is no reason in principle why they could not also be dwellings. Mr. Fowler wanted to speak mostly about this legislative vehicle you are considering. He thinks this is full of loopholes and he imagines that there are people licking their chops trying to get after this. It is clumsy and it is dangerous. Mr. Fowler noted that Attorney Stevens already mentioned the problem with the single family designation in the sense that there are three kinds of single families and detached is not in the legislation. Furthermore, you should be aware that it is very easy to convert a multi-family dwelling into a single family dwelling. If you look at the definitions of the zoning code, if you have a facility with several apartments in it, all you have to do is remove the toilets from all of the apartments except for one. There will then only be one unit in that dwelling that qualified for habitation by one family. That will be a single family dwelling. So you do not even have to do a lot of rehab, all you do is ask the people to move out, which they will do anyway if they will convert it to an office, take the toilets out and now you are a single family dwelling. So many multi-family dwellings with non-conforming use might qualify. Mr. Fowler added then there is this corner lot specification and this argument that it is a corner lot is such a perversion of the corner lot ordinance that even a ten year old would see through it. Any provision in an ordinance should be specified as why but there is no why for the corner in this case except that it happens to be a corner. Therefore, someone who qualified except for being on a corner could make a very good appeal to the City that this is an arbitrary designation. Mr. Fowler has a house that is not on a corner with non-conforming use. There is no reason why it should be only corner, and therefore, he also would qualify. Those are just some of the loopholes, and he is sure there are more. He

noted that Council is getting themselves into a potentially dangerous situation with this particular legislation. He hopes that you do not pass this, but if you do, he thinks there will be people lining up to take advantage of it.

Barbara Diamond, 425 Center Street, informed this issue and your decision is about integrity, the integrity of our neighborhood to be free from commercial encroachment. It is also about the integrity of our existing zoning code and regulations that were the product of considerable deliberation by community stakeholders. The integrity of the City's planning goals and processes that should adhere to professional standards, and the integrity of you our representatives and the Administration to respect established practices, procedures and objectives governing zoning. Please act in the interest of Bethlehem's neighborhoods and reject this change.

Ed Gallagher, 49 West Greenwich Street, commented in the last blog post this morning, he encouraged people to come to this meeting to see what is going on. He mentioned that you would see democracy in action. This is the gadfly project, citizen participation, and democracy in action. As gadfly he has tried to stay in the middle and keep both sides going. He pointed out he put the entire audio of the Public Hearing on his website and then he broke down all of the commentary, people for this on one side and people against on the other side. There were about an equal number of participants. In reading back through those audios he cannot help but be appreciative of the quality of our citizens here tonight to hear Mr. Fitzpatrick and Mr. Diamond, both strong people talking their sides and issues. Mr. Gallagher related that the gadfly, at a certain point after listening to everything, may make his own opinion. There were several things in that discussion last meeting that he really started to think about. What makes a residential neighborhood and that image of a cup of sugar? This started him thinking about neighborhoods and senior citizens. People his age worry if there is someone whose car out front has not moved for three days and will knock on your door and ask if you are okay. It is also someone who says to him that he is 78 years old and asks if they can shovel the sidewalk. So he started to think about what makes a residential neighborhood go bad, and the image he saw was the image from Mr. Antalics of the cancer that hit the south side. It started at one place; and 10 to 15 years later what do you have? There was another analogy about football, when a foul occurs on the field, a judgment should be made closest to the action. So who should make the decision? He learned a term "aspirational zoning", a term he had never heard before. It really makes sense to him what zoning is all about and what we want a place to be, so this will be a tough decision. We had a meeting last week and last night on the budget and on both nights he drove home past the property at 2 West Market. He noted last night he actually stopped and looked, he remarked that the place is gorgeous. These are good people and this is a good building, but Council needs to decide. The words that kept coming back to him were the words from Mr. Malozi of the Planning Commission. He said you have to cut away some stuff, and you have to think about the comprehensive plan. That is where Mr. Gallagher ended up. He did not feel strong appeals to the comprehensive plan or the zoning ordinance itself. It seemed to him those were the core documents so gladfly came down to denial.

Kori Lannan, partner at Quadrant Private Wealth thanked Council and the Mayor for consideration in this matter. She would like to mostly use her time tonight to try to quell some myths by highlighting three critical simple facts. Ms. Lannan expressed there are first hand truths and not revisionist history to which you have been subjected to by certain parties who were never directly involved in these events. One, the Schadt family tried to sell this property for almost two years and then could not. You have heard testimony from Sue Glemser and last time from Mark

Schadt to that effect. It remained available and difficult for the Schadt family to sell because it is a complex, burdensome, non-dividable property requiring significant investment. Two, it was already a mixed use property allowing for a retail use on a busy intersection and surrounded on nearly all sides by commercial interest. It did not seem to a stretch to us after the property went unsold to ask the City through appropriate public channels and process for permission for an office use. We made a financial and emotional commitment to rehabilitate, preserve, and maintain this majestic and historic property. This includes the house, the green buildings, the two apartments, and the store fronts. We have a deep and broad history of philanthropy in Bethlehem and that is the lens through which we reviewed this endeavor. Three, we did not do any work on this property until after we had the appropriate approvals from Bethlehem Zoning and from Northampton County Courts. Certain sources have circulated rumors to the contrary and they are simply false in an attempt to influence this decision. Those are first hand facts, reality, not hearsay, not opinion, and not idealism. Ms. Lannan read in the newspaper recently an opinion that our neighborhoods are not a playground for rich businessmen. Herman Rij, whom she can only assume is the rich businessman, is one of the most selfless people that you will ever meet. She asserted to portray him as a cold, miserly, self-serving mogul could not be more inaccurate or misguided. He is a completely self-made, patriotic, dutiful man who has worked very hard to earn all that he has accomplished and with resources of any kind he is extraordinarily generous. Even if you do not care for Herman, those points cannot be argued. He engaged in this costly labor of love to do good for the City and for the historic district. Even his profession, his life's work for five decades is one of service to families, to aid them in achieving their life goals and dreams for themselves and the ones they love. That is the kind of man and neighbor that she wants as an ally in her neighborhood, looking out for and supporting the health, vibrancy and sustenance in her community. There is a saying about looking a gift horse in the mouth that she thinks applies here. The restoration and preservation of this property and others like it is something to be grateful for. However, Mr. Diamond is right; this is not about Mr. Rij, so none of what she just said is to say that you should vote in favor because Herman Rij is a nice guy. That is not what she is saying. But it is to give you an accurate landscape against which to please evaluate your options. Restoring this building was not a self-serving proposition; it was to leave a philanthropic legacy to the City of Bethlehem. Ms. Lannan watched a commercial on television on Small Business Saturday that featured Lin-Manuel Miranda, the creator of the musical Hamilton. She affirmed his message grabbed her attention because he said "I am all for my neighborhood, I am all for backing the community that has made me who I am. I am all for my theater, barbershop, and my friends because the community does not just have small businesses, it is small businesses." Small businesses not only add to a district like this one, it is critical to attract consumers and visitors who support the local economy of the City. Ms. Lannan highlighted we are a small business and we strongly support our sister small businesses in downtown Bethlehem. If you are from this area you certainly recall the epic decay and decline of Center City Allentown and the massive investment and effort that has been required to bring it back. Ms. Lannan implores Council to please, from a practical and realistic perspective, to embrace those aforementioned three facts. It was a substantial opportunity for the house to sell to a family and it did not. This was already a mixed use property surrounded by commercial interest and we did not do any work on this property until receiving appropriate approvals through the proper channels. It is of paramount importance that the shape of the supremely historic green building is front of mind while you evaluate your positions. These buildings are certainly among the various properties around the City that stand to benefit from this amendment. We truly believe that an amendment that encourages this kind of stewardship and

investment in awkward properties such as the mixed use parcel at 2 West Market is good for the property, good for the neighborhood, good for historic Bethlehem and good for the City.

Jerry Kindrachuk, 3535 Fox Run Drive, Allentown, stated he is not a Bethlehem resident but is a very conscious citizen of the Lehigh Valley as it relates to historic rehabilitation and historic preservation. Mr. Gallagher earlier had said that Bethlehem is very proud of its history. There was another lament about what happened to the Market Place on the south side. This project includes the Brass Works and the Brass Works is a treasure because there are only two or three left in the United States. If Quadrant Private Wealth is forced to move to another location the Brass Works are toast. He can assure that no one is going to invest half a million dollars into a dilapidated building that really has no economic value. Mr. Kindrachuk noted as a financial projector, the entire concept, the garage and the green buildings have no economic substance, it is not sustainable in the long run. Anyone who acquires it after this will have to gut it and you cannot turn it into a private residence again. It is more than just taking out a few toilets. The place would have to be completely gutted and restructured again. That would be another million dollar investment. It is unreasonable for somebody to invest a total of \$3 million dollars to live on the corner opposite Moravian Academy in Bethlehem regardless of how pretty it is and how much sugar you can borrow. Mr. Kindrachuk explained he is a financial planner and he practiced as a CPA. He remarked, with 1,000 square feet you would have to charge \$4,000 dollars a month to break even on this property. That does not include investing another half a million or \$400,000 dollars into the green buildings that was mentioned earlier. If you want to sub-divide it, those green buildings, the Brass Works, would have to be left alone. They would deteriorate, there would be a lawsuit for safety purposes, they would have to be demolished with a lawsuit by the City to the new owners, in which case you then have a vacant lot. There is no economic viability that he can see. He cannot create a substantial financial model that would make this a reasonable project. If Quadrant moves out, you will never get a better neighbor. They have committed their heart and soul and their wealth to restoring this property to make it look like it is part of the community. As Mr. Gallagher said, it is beautiful and it is. This house looks better than a lot of the residences in that neighborhood. Mr. Kindrachuk urges Council to vote positively on this and that is more from a preservation standpoint, it is not zoning, it is preservation.

Dan Nigito, 20 West Market Street, remarked he is four doors away from 2 West Market Street and his business is next door at 14 West Market Street. He noted there is an apartment building between us and 2 West Market. He loves being a part of historic Bethlehem and has said this many times during this process. He loves being a part of this neighborhood and he loves his neighbors. We are different and we have different opinions and he respects so much their knowledge and their passion for those opposed and those for this. He cannot even match them intellectually regarding zoning ordinances and legality with this project, so he will speak only as a neighbor because he is the closest resident to this project. Mr. Nigito stressed he is speaking in favor of Morning Star and the amendment. This is a very unique neighborhood. Across the street is the cemetery and Moravian Academy so we already have a very unique property on a very unique block. There are not a whole lot of people from the cemetery and Moravian with eyes on our property and offering to take care of us. Next door is an apartment and he knows the owner of the apartment building who is a wonderful guy and we work together. But having an apartment as a next door neighbor is not a panacea. It is transient people in and out. They are nice kids, mostly college kids. They are not the kind of neighbors that you are going to share stories with and have them over for dinner and nor will they care what is going on at his house. The fact is, and he is speaking just for himself and as a resident, he loves what they did at 2 West

Market Street and what kind of a neighbor they are for us. They have added some incredible integrity to the neighborhood in the beautification of that project. Mr. Nigito hopes that Council will consider a non-legal aspect to voting this evening.

Terry Theman, 132 East Market Street, stated he has lived in the historic district since 1991. He and his wife love living downtown and for all the reasons that you have heard. He stands here in support of Herman Rij and the work he has done with his property. He is an exemplary neighbor and a kind of person who brings value to the historic district. Mr. Theman can offer no argument that you have not already heard in great detail. He just wanted Council to know that he represents more than just himself, many of his colleagues and neighbors also feel the same way that he does about this project. He hopes that Council will vote in favor.

Mary Rose Wilson, 64 East Wall Street, informed she has heard many great points and she can see the passion that people have in supporting Mr. Rij and changing the zoning in support of 2 West Market Street. It is beautiful and she understands that when it was for sale it was a very quirky property to sell. She thinks it was over-priced but there could have been the right buyer out there that could have done something with it, that is just her opinion. Ms. Wilson pointed out that someone just turned an Airbnb on Market Street into a single family home and they made it look stunning. So it can be done with the right buyer. She feels like what is being lost in a lot of this is what is going to happen if this does go through because it will set up a precedent. Mr. Rij did do a great job with the place but we are opening this up to someone saying they want a business on another street. She and her husband have an online retail store and what is to say that they cannot just open up a retail store out of their house. Then we can see if we can get the zoning to work in our favor. Then there is no neighborhood anymore. Ms. Wilson added for a residential neighborhood there, we already have some grandfathered in businesses, we should not be adding more. We should be trying to keep the integrity of the neighborhood as best as we can. There are many residential neighborhoods throughout the Valley that would never have to deal with constantly battling to keep the integrity of our neighborhood. There are family in Macungie, family in Center Valley and friends and they do not have financial offices opening up next door and Airbnb's taking over a house. They get to just keep their neighborhoods. Ms. Wilson feels like we have to fight constantly just to hang onto ours. She feels like we are targeted for two reasons, the beauty of the historic homes and their history and our proximity to popular attractions. But we are still a residential district and we are no different than any of these other neighborhoods throughout the Valley. There are neighborhoods in Hanover Township, Palmer Township. There are plenty of places to rehab on Broad Street if someone wants to have a business in this town. Ms. Wilson gave the Boyd Theater as an example and asked why will not someone just buy the Boyd and save that gorgeous theater. When we are all just businesses what would happen with the Christmas house tours and the ghost walks. No one cares about a ghost in a financial planning office. Gone will be the historic district get together for all the neighbors to get together and get to know each other and an annual summer block party on Wall Street with kid's magic shows. Gone will be the trick or treat nights and the neighbors helping each other to put the luminaries out each December or the young kids mowing lawns or raking leaves to make a few bucks. Ms. Wilson explained gone will be everything that makes this such a wonderful and magical place to live. It will be just another version of downtown with random offices, salons, bars, party houses sprinkled with some shuttered store fronts and maybe a few homeowner holdouts and a hookah lounge. Ms. Wilson stated if you give Mr. Rij a pass then everyone gets one.

Jason Cort, one of the principals at Quadrant Wealth wanted to make two points. We are putting out luminaries and we were on the Historic Home Tour, so we are neighbors. Neighbors sometimes can look different, but we are there and we are as active as any other neighbor or those that are concerned about that. He remarked that they looked at multiple properties on Broad Street before they bought 2 West Market Street and we decided, as is our right, to be at 2 West Market. We had multiple conversations and said we knew we had to clear some things up before we can practically invest as much money as we needed to. That is why we waited for two years. We waited two years to get the approval from the Zoning Hearing Board; we waited for Northampton County Court to affirm that appeal. Here we are four and half years into this. Mr. Cort would suggest that with Allentown begging for people to come there for business and for Easton actively working, maybe that is what Bethlehem wants but to say that anyone who wants to start a business in Bethlehem, that if anybody fights you might be looking at a four and half year wait, he would say, good luck to getting economic development, good luck to the tax revenue, good luck to anything. He is all for the integrity of the neighborhood, being good corporate citizens, and good neighbors. He cannot imagine four and half years from now, after we have done everything that the City of Bethlehem has asked us to do, to have that taken way, so he respectfully asks for your support.

Steve Antalics, 737 Ridge Street, feels obliged to make comments based upon Mr. Gallagher and Mr. Fowler's comments. When you hear the word family you think of father, mother, children, and so on and that is accepted that they are related; they are a family and as Mr. Gallagher alluded to, the demise of the Southside started with the definition of family. The zoning code said family and he would assume husband, wife, children, grandparents but one word was added to the term family and that was "unrelated". What that meant was a non-resident landlord looking for profit could then take in five students in the City nine months of the year unrelated to each other. Adding the word unrelated to the term family in the Zoning Code destroyed that Southside, so be very careful. It is about how the wording is used and Mr. Fowler said a precedent and Mr. Gallagher said one house became a student house. That landlord could make three times amount of rent that you could get from a single family. Mr. Antalics noted Fifth Street, Birkel Avenue, Montclair Avenue, Carlton Avenue, Hillside Avenue, and Filmore Street, are all student housing. The idea is, are you setting a precedent by opening the door to unscrupulous people like what happened on the Southside.

Nora Reilly, 2711 Bridle Path Place, remarked her youngest child is graduating from Moravian Academy this year. She attended kindergarten across the street from 2 West Market Street. For many years their favorite meeting spot was in front of the book store in the green buildings. At the last hearing a resident suggested that the Schadt family was not patient enough to find a buyer to use the property as a residence. She expressed it made me think about what that buyer would have looked like. It would have had to be a large family, they would have had to be able to secure a commercial loan, they would have had to be passionate about renovating building, and they would have had to the finances, the time and patience to either live in the building while it is being renovated or live somewhere else. Ideally they would not have small children since the front and side doors exist out to busy city streets. This family could not have really valued outdoor space since the property really does not have a yard which would probably have made it difficult to have a dog. Ms. Reilly noted they would have had to enjoy being a landlord and wanted to share with their family this property in order to give value to the rental units that are on the property, and only if we were lucky, they would be passionate about historical restoration so that we would not lose the green buildings. The family would want to

live in a building that is adjacent to a Verizon building. The Schadt family did not find this unicorn family; it does not exist. Instead they sold it to the Rij's and it was meticulously renovated. It provides jobs in the City, it provides internships for young people, it is a company that contributes to the community and this is very pleasing. Ms. Reilly would ask that City Council vote in the best interest of this situation as it is today and not in an aspirational sense that was recommended at the last meeting.

Daryl Phillips, 554 Carlton Avenue, wanted to talk about someone who is called Coach. He met him two years ago while he was sitting on a bench minding his own business. Mr. Phillips related he is unfortunately homeless. He came by one day and said "how are you doing" and we shook hands. The next morning he came by and gave him some money. It was appreciated. He told me to do the right thing with it and he did, he ate. He explained since then this man has changed my life. What he means by change his life, he thinks better of himself and he likes himself. Mr. Phillips likes what he is doing as far as a human being and he also thinks that Mr. Rij is a very good quality person in this area. He cannot speak for everyone here tonight but he does know what he has seen from Mr. Rij and he does know what he has witnessed and what he has seen are some beautiful things. He thinks if you took him away from here a lot will miss him.

Mark Schadt, 2257 Pleasant Mill Road, Coopersburg, expressed he is a family member of the former owners. We were able to receive a letter from the realtor, Nancy Alhum of Dorey Real Estate, and he sent it to the Members of Council. It helps to delineate their difficulties with the property. Mr. Schadt read the letter as follows: "This is to memorialize the history of the sale of 2 West Market Street, Bethlehem; the following synopsis is supported by the documentation which is attached. The first day on the market was May 10, 2013; the final settlement was July 12, 2014. It was on the market for 289 days. The house was listed for \$625,000 and eventually sold for \$550,000 on July 12, 2014, over one year later. The first agreement was received in September from Morning Star but was terminated because the buyer did not have written approval from zoning for this anticipated use. The house languished on the market because buyers did not want a home to be a commercial corner, did not want a home on a commercial corner with no yard containing a commercial rental building. There is very little grass area and that grass is in the rear. Behind the garage above sits a three story brick wall of the Bell Telephone Company, an area of no sun light and not connected to the house. Because of this configuration the home parking area garage, one story takes up most of the ground coverage and offers no space for a family to enjoy. The property shows in public records today as a mixed retail apartment, office, rental and commercial as in the reference attached. Residential buyers are not attracted to the possibility of investing capital expenses to renovate this great space home if they had to be on a commercial corner surrounded by Moravian Academy office, the subsequent acquisition of the YWCA, Bell Telephone, Law Offices, and Glemser properties. Two doors away is Nigito Financial Group, the next door property is a rental property, and across the corner is a bed and breakfast. The offer from Morning Star was the only way the owners could sell the home. In retrospect the buyers should have installed a historically appropriate door from the kitchen on North New Street and then apply for the renovation permit based on commercial zoning on that side of the property. In summary the sale took 289 days on the market because the property was not appropriate for residential use. Today the renovations from the current owner, Morning Star have enhanced the properties aesthetics and contribute greatly to the look and feel of Historic Bethlehem. Should the property go back on the market today however, the next buyer would be a multi-family apartment or an institution living facility as allowed in current zoning. This would

certainly be detrimental to the intention of Historic Bethlehem, a further testament to the value of fact that Morning Star has been an exemplary neighbor since July 2014. It is four years after purchase, renovation and occupancy and the neighborhood, based on numerous signatures to put a stop the valuable neighbor trying to sell their property to unknown buyer who would cause substantial change to area. Nancy Alhum, Associate Broker, Board Member of Historic Bethlehem and Sites." Mr. Schadt had a few takeaways from some of the comments. Addressing Mr. Antalics, he said we are on the same side. There is going to be a winner and a loser, unfortunately there is not much for middle ground. The only middle ground he sees is crafting a very specific exception to zoning that does not open the way to additional commercial development, allows for this property to attain its goal because this property is unique. It is on a commercial block like the parking garage, the Bell Telephone switching tower, Downtown Bethlehem and all the stores and restaurants that go there. He expressed if they are not allowed to keep this property that will be a problem. We had two buyers who were clearly interested in turning it into apartments but did not provide an offer because of the substantial financial need to make it viable. But when you talk about a cancer this is going to be just the same as the Southside with a New York buyer that is looking for a profit that will just fill it with people and charge rental income to students. He thinks what we have here is an alternative that is extraordinary and he would recommend its approval.

Jim Kostecky, 1009 Stone Stack Drive, noted his firm was hired by the contractor for this project. He wants to address comment that he read since the last meeting where someone said that the owner has not yet shown hardship with this case. The owner has faced hardship financially in completing this project. But that to me is not a hardship. The real hardship in this case is not a person but an important building, which is 2 West Market Street. That house never asked to be connected to the rear commercial property which has unfortunately thrown her future into the center of this debate. She has been encumbered by those green deteriorating buildings which have pretty historical significance. The house is in a residential district, the green buildings are in a commercial district; they are forever joined at the hip. Mr. Kostecky mentioned two years ago Herman Rij has done a magnificent job restoring the house every square inch of the building inside and outside. The inside is actually museum quality. The objectors to this effort are advocating a different approach. They would prefer a developer acquire the building for apartments. Basically gut the inside of it, fill that space with drywall petitions, plywood doors, Home Depot bath and fixtures. The objectors who profess to love this district are advocating destroying the beautiful interior of that house to build multiple apartments. He cannot grasp that concept. It is illogical. As an aside, during construction we uncovered numerous artifacts including a letter written by Sara Luckenbach to a friend in Lititz, some old newspapers, a mid-century bottle and clothespins. These documents were framed and hung in the renovated house. The copies of the documents were given to Historic Bethlehem for their records. This is what well-meaning people do to help preserve the historical artifacts. Herm Rij has spent a bundle on this house but there is still much more to do. He has stopped his plans given the current circumstances. He has sidewalks to replace, the driveway to pave, and those green buildings will be very costly to make them functional. Mr. Kostecky checked the numbers today, the main house cost \$200/sq. to renovate times 6,600 sq. ft. The green buildings will actually cost more than that. They are smaller spaces. He pointed out that due to cost increases, architectural and engineering services will be required. At a minimum those building have to be gutted. The structure deficiencies and will need replacement of everything. Those buildings are 2000 sq. ft. total. He noted at \$200 sq. ft. you can see where that \$400,000 comes from. The bottom line is, given the reality, there is not a developer in the world or potential home owner who would be

willing to take on that potential responsibility. But a benefactor has emerged – Herm Rij. His primary mission was to restore 2 West Market Street because of its importance to the historic district. He saw what it could become. Yes, he had to use his business as a vehicle to get it done. It would have been impossible any other way. From the beginning there have been a handful of objectors who have been aggressive. He understands Council was provided with a list of most in the historic district, who are urging Council to override those objectors once and for all. Should Mr. Rij have to relinquish his ownership he will go on record saying nothing can come out of it for the City of Bethlehem or the historic district. Mr. Kostecky urges Council to pass this ordinance.

Will Carpenter, 224 Wall Street informed he is not opposed to the use or the user. From what he understands of their character, what they have done to the property is fantastic. He is not sure he can envision a better user for that property. He is also not opposed to mix use. It can bring positives to it. He objects because it is against the law. They are not operating within the laws we elect you to enforce. Part of what he sees is Council's job is to protect us by enforcing laws equally on all of us; not to dole out favors to friends and supporters but enforce the law so that we can all have some level of certainty. He thinks if this ordinance is passed, and if he understands, it is very clumsy way to try to retain this "gift horse" this good use of user, which he is in favor of, but sometimes it is inconvenient. Sometimes a good thing cannot happen because the laws are not appropriate and we look to you as elected officials to enforce that. Also why that certainty matters is for us as investors, we invest in this neighborhood because of past investors who kept this neighborhood strong. When you think about investors, you do not invest in companies or countries with shaky laws and where things can happen that cannot be predicted. It is the same in a neighborhood. Why would a new investor buy a house in the situation, knowing that corner could soon become commercial property? The tool to make this happens is clumsy and negligent on the City's part to try and make this happen.

George Romeril, 26 West Market Street stated he is reading for his father who is not able to attend the meeting tonight. He stated we are the unicorn family. My father bought 26 West Market Street after it was vacant for 15 years and we lived there and rehabbed it at the same time. My brother and my sister went across the street with the crossing guard to Moravian Academy. My father purchased this house in 1975 and the reason he wants to talk about how he refurbished it is to kind of dispel the assertions and false claims made at Zoning Hearing Board meeting and Council meetings about 2 West Market Street beginning with the only possible economical solution was to go commercial and it is in residential district and it was a single family house for over 40 years. When he purchased the home, he was presented with a list of items that the City Council and the inspectors compiled that had to be addressed before he could occupy so he got the services of Robert Spillman and they went to work. The house had one bath and the chimney was falling down, stucco was crazy, there was knob and tube. The heating did not work. It was a five zone base board hot water system. They put in a 100,000 gallon underground tank. They painted the outside, but is not about the building. Mr. Romeril stressed it is about the neighborhood. It is about what is going on in a residential area and not just changing it to make it easy for someone else. A large old house can successfully be rehabilitated by mere mortals. This house was. My father relayed all these details to provide the background to compare what was done at 2 West Market. However, a good deal of the work done at 2 West Market was to make it suitable for an office and employees. He guesses they did not realize that they were in a residential district. As a former friend of the neighbor, my father would go over to 2 West delivering tomatoes and dahlias and always notice how the place was meticulously trimmed and the hedges were nicely tidied and everything else. A family of six lived there for quite a while.

The question we have is where is the two piece iron driveway gate that was promised to be put back at one of the other meetings. These ongoing hearings continue to show that the appellants approach to zoning code is quite simple. If you cannot get your way under the existing laws, change the laws.

Sherry Kerchner, 51 West Broad Street, asserted the Quadrant building is a unique property. It has the green buildings; it is in a commercial corridor. She wanted to focus on neighborhood. Some people have talked earlier about neighborhood. Being a small business owner we are part of the neighborhood. We participate in the events, raise money and just recently for the lights in Bethlehem, participate in luminaria night, take care of our property, give a lot of charitable donations, and we care about the people in our neighborhood. If they frequent our business and we have not seen them, we reach out to them. We have a sense of community. She recently attended the Northside 2027 meeting and she urges anyone who has not attended to do so. It is about community and how we change Bethlehem, how we change the north side to be better for residents and businesses. A community is made up of more than one building, one home. It is made up of residents and business owners. She was encouraged about the ideas of making outdoor green spaces, creating walking and biking paths. These are things that improve neighborhoods and will improve north side Bethlehem as a whole. One block over from Market Street is Broad Street and of course, the Boyd Theater area. As many are aware this building and adjoining buildings are in need of much attention and she hopes the focus that we have here in these meetings will do something and that energy can go into fighting and improving that area of Bethlehem because it does not do anything good for the neighborhood of Bethlehem. She argues that we change our focus on fighting against Quadrant Wealth and focus on ways we can make the north side as a whole, a community that has services from community feeling, façade improvements that for anybody that lives in Bethlehem, works or has a business in the city wants. She concluded let's focus on the future development on the north side as a whole and approve this and please put our focus somewhere else where we need to improve the living conditions of the residents, the businesses and make it great again.

Victoria Aitchison, 2752 Walker Place, informed she met the Rij's when she was eight years old when they moved into the neighborhood. She cannot imagine better neighbors. She does not have a degree in City Planning as she understands some of the speakers have, but she is starting theology at Moravian Seminary and last night Dr. Barry Kerzen was there who is a Buddhist monk and is the doctor for his holiness the Dali Lama. A wonderful mother stood up and she said how in this world do we kind of navigate around all this energy and how does she keep boundaries and Dr. Kerzen said take the boundaries down. He said have conversations, be a community and treat people and community from the best place possible. She really believes that if we believe in our neighbors and in our Planning Commission, then they can make decisions that are best for the neighborhood in the time and place that we need to and we do not have to have a lot in place that creates the boundaries when we have the opportunity to have a smaller group to really come together and make decisions that make sense for the neighborhood in this time. She really would love to see the Rij's stay in downtown Bethlehem. Her husband works catty-corner and she supports all the businesses and they are absolutely right in that when she does not show up at Wise Bean, they text her to see if everything is okay. She concluded saying it is where she loves to spend time and the Rij's will continue to add value.

Claire Rij, wanted to address two things mentioned by Mr. Romeril. He said that all the money that has been invested into the house is to make it into an office. She invites anyone who

is against this to come and walk through the house. It is not an office; the essence of it is a home. We worked extremely hard to not destroy what that house was. The second thing she would like to address is the gate. The gate is actually in the garage; it is broken but it cannot be installed until the sidewalks are replaced and the driveway is replaced. If we are still there, when those sidewalks are replaced and the driveway is done, the gate will be fixed and the gate will go back up. She said to her husband this weekend, if we are in that house a year from now, she would like to see a wreath hanging on that gate because that is what she thinks needs to be there.

Robert Virgilio, 476 North New Street, noted there are a lot different buildings in the Historic District, some large, some not so large. The present Zoning Ordinance in the past has tried to do its best to fit the right place into those larger buildings, like funeral homes, his bed and breakfast, and even though our historic district has a greater percentage of apartments, you hope to avoid that if possible. Mr. Rij's property is that case. He thanked Council for allowing him to speak and thanked the Mayor, as well. He expressed our Ordinance for the bed and breakfast requires us to live there and he does not think we have degraded the neighborhood at all, yet we are a business. He is trying to figure out what the opposition sees as encroachment or downgrading of our neighborhood. He continued to say in the past thirty years, there is only one full fledge office that has come about and that is my good neighbor, Mr. Nigito, which was approved. Some of the opposition actually supported that change and he is two doors down from Mr. Rij. That did not hurt the neighborhood. He thinks it has enhanced it. If you go across the street from his place, which is right across from 2 West Market Street, and look at the cemetery, you are going to see beyond the cemetery to what is called the IT zone-Institutional zone and in that zone offices can be put into single family homes any time by Moravian Academy, Moravian Church, by any non-profit that does not even pay property taxes. That has been going on and continues to go on and that has not been a problem for our neighborhood, although one of the opposition lives in the neighborhood and is not worried about that at all. These are all things that make a small city, that gives it its vibrancy. Morning Star partners and what they are doing and the way their attorney has crafted the Ordinance works. He commented this text amendment specifically states that it almost impossible to happen and just consider who on earth would want to go through this to make it happen. Do we have any businesses coming to Bethlehem that are going through this? Will we scare other businesses away that are not in the historic district? This is a decision you will have to make tonight. He asks that City Council's support the Ordinance. He pointed out we are lucky to have a neighbor like Morning Star. That is us, the Nigito's, the Sink's, we are trying to hold onto this because we believe that it is the best fit for this particular building. This has nothing to do with Airbnb, nothing to do with the shelter, nothing to do with apartment buildings that are already in the neighborhood and still to come because one word was changed. Mr. Virgilio stated this has to do with that building and it is important to send that message to other business people, residents, taxpayers. He asserted for the amount of taxes that his business pays we ought to be thankful that they help share the burden so this is just about that particular building. The decision you will make will help the taxpayers in supporting this text amendment.

Suzanne Virgilio, 476 North New Street, remarked she has lived at this address for over 33 years, running a bed and breakfast with her husband. She would like to clear up that there are rumors about other properties in the neighborhood and what they have sold for and people were lined up to buy properties in Historic Bethlehem and so on. While that is true and it is great that properties are selling, the reality is there is a property on Market Street that has been on the market for over five months, if not longer, that has an asking price of over \$900,000 and it has not

sold and it has far more amenities than Mr. Rij's property. The Morning Star bed and breakfast was on the market for over three years. They were asking over \$1 million and it sold for \$860,000. While there might be people lined up and willing to pay cash or whatever, the reality is this property did not sell. Anyone in this room had ability to buy it if they wanted to but they chose not to. She stated thank goodness Mr. Rij did buy it. She pointed out she and the majority of the people in the neighborhood are grateful. Prior to renovations on that property she and several other women in the neighborhood went door to door with a petition asking for support what Mr. Rij was proposing. We obtained over 100 signatures and she believes Council has a copy of that petition. We did not go door to door again because people that they spoke to today could not believe this is still going on; four years later and this is still going on. It is a small vocal minority that is opposing this. Regarding the comments about kids raking leaves and people having block parties, on a small scale that might happen, but if you want that you need to look to Hanover Township. You are living in a downtown, you purchased a property that is in a mixed area and Ms. Virgilio thinks for most of us we purchased our properties because we like being able to walk to shops and restaurants. Half of my neighbors have other homes and are gone for six months out of the year with no lights on in their house. She queried are we going to start to reprimand them because they are not home? There seems to be this desire for this kumbaya environment, but it is not going to happen because the vocal minority keeps perpetuating this madness. We need to find peace in this community and stop this neighbor against neighbor and stop this threatening and mob mentality. It is a very sad situation to live at and walk out the door and see neighbors and be so annoyed with each other; we have to stop perpetuating that. The reality is Mr. Rij is here, the property is beautiful, it has increased the integrity of our downtown; it has improved our historic value and promises to do so in the future. What more does the opposition want but just to win. They will never be happy. Ms. Virgilio noted that three years from now we will be back again because there will be something else that they do not like and they want to get their way. It is time to put an end to this.

Attorney Jim Preston representing Morning Star Partners, LLC remarked in listening to the comments this evening he heard one gentleman who spoke in opposition to the proposal who said that sometimes good things can happen because the law does not allow it. That is so true because of the law does not allow it. There is nothing that he can do about it, but you can. And so we are asking you in our petition to allow a good thing to happen. In order to sort of shed some light on what has been said this evening, he has a couple of factual statements that he would like to make or correct. Attorney Preston informed we submitted a petition that showed eight properties that we said could be included or be potential qualifiers for the zoning amendment. The City then gave you an assessment that none of those qualify. The reason they said none of those qualify is because none of those properties contains a single family detached dwelling. That is correct. Mr. Stevens is correct. Your Ordinance does not require a single family detached dwelling; it just requires a single family dwelling. It is not hard to figure out what those properties are, again, they have to be in an RT or RG zoning district at the intersection of two streets, they have to contain this "single family dwelling", and they also have to contain zoned non-conforming retail or commercial use in combination with a single family dwelling and that is very important. That is because if you understand the criteria you begin to see there is not that much difference, that much distance between each side in this matter. There are no dominoes that are getting ready to fall. There is no camel getting ready to poke his nose under the tent; there is no camel; there is no tent. This is about a certain particular property. It is a property that has been identified in the materials we have submitted. You can take it apart, and rebuild it. And if you are so inclined, you can take all the toilets out. You can make it into a single family

detached dwelling. You can install fireplaces, garages, it does not matter. Attorney Preston stressed this Ordinance does not apply to you unless you are at the intersection of two streets, and have non-confirming retail commercial use in combination with your newly developed single family dwelling. If you do not have that this Ordinance does not apply. You cannot one day decide, as he has heard, to operate a retail business out of your home, you cannot take all these homes that we have heard about and convert them into businesses; you cannot do it. He thinks it is important to understand what is at stake. What the petitioner is asking is that this Council, which does have the ability to make good things happen, even though the law does not allow it, to make a good thing happen and the good thing is at 2 West Market Street. We all know what it is and we have all seen it, but it is not just a house on the corner. This property is referred to over and over again as the house, the dwelling. It is not, it has never been. It started as the Moravian Brass Works before there ever was a house on the property. This property has never been dedicated to single family dwelling use. There are apartments over the retail uses in addition to apartments over the garage, but the retail uses flowed out from the Moravian Brass Works and Foundry. There are no Moravian Brass Works on Broad Street, there are none on Main Street, and there are none anywhere around here, except the one that we are talking about this evening. That is all this is about. Attorney Preston noted this is about 2 West Market Street. He stated the fact is that there is a unique situation there that has fallen through the cracks judicially because no, the court never said this is what we want you to do with your downtown, we need a variance with certain hoops you have to jump through and we disagreed on whether or not we met the burden; not locally. Locally, it was agreed this is an appropriate use of the property so all we are asking is for this body, which has the ability to make good things happen, even though the law does not allow it, to change it up and make the law allow the good things that exist up on 2 West Market. There is no cancer, none of that.

Herman Rij, 2705 Bridle Path Place, expressed there has been so much redundancy over the last two meetings including the Planning Commission meeting. Over the past six weeks he has listened to multiple statements made by well intention individuals. The end result, has appeared to evolve into strident, defined, albeit opposite positions. He was excited to hear tonight that he could be so influential to the future developments of the City. The different characterizations made of him and his intentions, quite frankly if true, he decided he might not like himself either. He will share a few comments with everyone tonight. He and his wife are private people. Mr. Rij has been described as a wealthy person who wants to use the historic district as a playground. He is wealthy. He is wealthy because he has a good family. The family is in the office as well as at home. He has great friends. Had it not been for all of those and despite those it has been quite an ordeal. Mr. Rij explained he came to the United States in the bottom of the boat legally, to be an immigrant, to be a migrant worker. He did not come from money. My wife is a byproduct of two teachers from the City of Bethlehem in the Lehigh Valley. She did not come from money. The property that we have discussed so frequently, we were only able to acquire by mortgaging other assets we had because there was no financing available. There is still is none; much less to do the renovations that were necessary. There have been a lot of straw men presented during these arguments. It used to be, if you allow these folks to do this they are going to create parking issues. Mr. Rij explained now it is known that there are no parking issues. Our employees park in the parking deck. The straw men said we are going to create traffic related issues. He reported, the four or ten clients we have during the week park in the parking deck. We are going to change the character of the neighborhood, they said. It is now known that is not the case. What he does not understand is we are talking about neighbors and neighborhoods. Buildings do not make neighborhoods. People do. He has heard we want eyes

on the street, so do we. In fact, we have a full time caretaker who lives on the premises. He makes certain that the sidewalks are the first one cleaned, that the leaves are off the street, the garbage cans are the last ones out and first ones in. Everyone remembers Liz, the poor homeless person who lost her life a year ago in a tragic accident. Somehow Liz identified us as someone she could come to. A week before she died, she knocked on our door saying she had some problems. She wanted help. There were a lot of doors she could have knocked on in the neighborhood but somehow she knocked on ours because she identified us as people were willing to help her and we did. Speaking of eyes on the street, in looking up the history of this house, we found a website called "been verified". Mr. Rij stated that they discovered that within a quarter mile of our house there are four registered sexual predators; within a half mile of our house, there are ten. Their names, pictures and addresses are available. None of those addresses are at 2 West Market Street. He pointed out you can rent an apartment building and have no control of who is going to be there. You take the risk. There have been complaints about our fire escape. If you put apartments in, they require fire escapes. It is a City zoning issue. Mr. Rij continued with some of the pragmatic issues. Our firm pays in excess of \$100,000 in taxes to the City of Bethlehem, income, real estate, all others. Our business spends an excess of \$25,000 a year supporting local restaurants. That is why these businesses come here. You would have to eat out a heck of a lot from that house to support the restaurants to the extent that we do. He will not go into all the community efforts they support but last week he happened to be at the Historic Bethlehem dinner and he noticed there is a list of members, part of the Kemerer Society. Of all of the dissenters, one name was on that list. Mr. Rij alluded, so much for supporting historic Bethlehem. You have heard about the fact that we, prior to engaging on our effort, decided to enlist the support of the neighbors to explain what we were doing and why we were doing. As a result of that we passed petitions and had 78 neighbors from the historic district who signed the petition and Council has copies of it. We had 53 other people from the City of Bethlehem who supported that petition. We had 37 business owners who supported our petition. We stopped at 170 because we thought it was overkill. Some confusion exists about our request. This is not carte blanche as Mr. Preston has said for anyone to do anything. If he were in your position he would be insulted because some of the dissenters say that if you do this, anyone will do anything. He asserted he has a higher level of integrity for the people on the Planning Commission, City Council, the people who run these cities. That they can be caved under by influences, he finds this repulsive. The changes that we made to our house were legal. We did so after receiving approval. This is really a unique case because now you know what the end result was of things that were said that were going to take place, and they did not. Mr. Rij added that at our last meeting someone objected to the fact that we were running an illegal business out of our store. He wanted to give some facts. That woman was a business person in the City of Bethlehem, a woman owned business and we want to encourage that. She lost her lease and it is her sole means of support. We had an empty store, a commercial use and we allowed her to use it and we do not collect a pays worth of revenues from her. We absorb some of her expenses yet it was suggested by someone that we should throw her out. Is that neighborly? The decision would be whether you allow this historic property to be torn apart or become something else. Yes, this is not a house that has been destroyed by becoming an office, this is a house that has been restored and presently houses an office consistent with the mixed uses that it has had since inception. Mr. Rij stated our project was not for their own benefit, it was for the benefit of the neighborhood, the City, the historic district and for the City of Bethlehem. He asks that Council approve their request.

Virginia Fowler, 53 East Market Street, decided to speak in response to what she considered an offensive remark that the house on 2 West Market looks a lot better than many of the other houses in the neighborhood. She is a block away and she thinks their neighborhood looks pretty darn good. We are also one of those unicorn families. We have lived in that house for the last 18 years, and it was apartments for somewhere around 65 years. In 1985 Dr. Longo and his wife bought the house and started converting it back into a single family home, they still had two apartments. We bought the house and did a major renovation on the house and put a lot of money into it. This house is now a single family home. So this claim that nobody is going to come and buy a house and restore it is ridiculous and offensive to her. Ms. Fowler explained this neighborhood is under siege from several things and Council has received her letters about several of these. It is making this neighborhood unpleasant to live in for families and after 18 years living in this home we thought we would spend the rest of our lives in, we are seriously considering moving. Ms. Fowler has met with the Mayor and is asking to please support this neighborhood as a residential neighborhood. They talked about restoring the house and she went through it when it was on the tour and she was very disappointed to hear that they had torn out a back staircase. It is not restoration to tear out an original piece of a house to fit more offices. If they have done such a great restoration job as a family home why would it cost \$3 million dollars for a new owner to live in it? Ms. Fowler added that they arguing that this will only apply to this property, but she thinks that is called spot zoning, which is illegal.

Kent Aitchison, 2752 Walker Place, stated he has an office at 12 East Market Street. He has spoken in support of this plan and the business a few times. He was asked after the last Planning Commission meeting why he chose not to speak but he welcomes the end of a long divisive political season and thought maybe listening was in order. He remains pro on this amendment, but tried to listen. He did not hear anything convincing to him. He heard a few things that disturbed him with the people against this; they are obviously earnest, so they should listen. The closest thing he heard to something persuasive was an argument from a position of authority by a Council Member, which he was surprised to hear, although he did not think it appropriate. Mr. Aitchison heard that this is obviously supposed to be residential, but obvious to whom. It is residential, business and historic. This is a very unique place we live in. His understanding of this amendment is that it is a de minimus change to the text of the zoning ordinance. He happens to have a corner property, which for him turned out to be a hazard from wanting to have a shed because apparently he has two frontages so he had to get an exception to get a shed, which everybody else in his neighborhood has. Mr. Aitchison stated you can rest assured that his house on Walker Place is not likely to become an office or a nursing home. He heard a few comments at the Planning Commission meetings, one boasting about her bullying efforts to get some other similar circumstance to back down because she and her friends had pushed on the side that they were really right with threats of lawsuits and continued appeals. He hopes that Council understands that is not the thing to base your judgment on. People may appeal and people may bring lawsuits and frankly, from what he has heard he will do what he can for the defense. The husband of the husband and wife team went to the Mayor. Mr. Aitchison stated he has not met the Mayor yet, and he thanks Council and the Mayor for all they do and noted that he does not have the patience for any of this. He pointed out this is his fourth Tuesday with this. You have been bullied and threatened and campaigned against you about what is going on here. This is a de minimus change and we are lucky to have this neighbor, a good neighbor. He is a neighbor to the building and he has commonsense and is for this ordinance.

Angela Mcglinn, 419 Spring Street, stressed she is in huge support of Herman Rij and Quadrant being at 2 West Market Street. She thinks you have heard enough tonight and a lot of positive things. He brings a lot of good things to this neighborhood. There is nothing wrong with the building; he is keeping it well maintained. She wanted to say that she is in strong support in keeping it how it is. They are doing a great job, why change it?

Bill Scheirer, 1890 Eaton Avenue, pointed out it has been mentioned that the green buildings are not economically viable. They were a couple of years ago. He spoke to the two business owners. The lady with the used book store was put on a month to month lease so she decided to retire. The antique shop was subletting from her so she had to go too. The guy with the woodcarvings and the books did not want to leave; he said there was no place he could rent in downtown Bethlehem. He was told they could not heat the whole building just for him. He offered to pay for the electricity but was told no. In each of these cases Mr. Scheirer does not know who he talked to, all he knows is what he was told. 2 West Market Street was on the market for over a year, but if the asking price had been reduced sufficiently the property would have been sold much sooner. This is not to criticize the person handling the sale because that person may have had a fiduciary duty to maximize the sale price. Some neighbors support Quadrant's occupancy of 2 West Market and some oppose it and mightily all the way to the Commonwealth Court, because adding commercial to a residential area makes it less residential, obviously with strangers coming and going to the detriment of a sense of community. Such an adverse effect is mitigated or eliminated by government regulation which in this case is called zoning. Mr. Scheirer stated this is a mixed use lot and someday he would like to know why it has never been subdivided. The petitioner argues that is because it is partly commercial it should be wholly commercial. But it would be equally logical for it to be wholly residential. You have heard that the comprehensive plan exhorts commerce on the border of a residential area to be sensitive to that proximity and not that the residential use should yield to its commercial neighbor. If you approve this amendment it will set a precedent and can spread politically. You have also heard that a special exception from the Zoning Hearing Board will be required, but this is the same group that granted a use variance that was successfully appealed. Mr. Scheirer stated if you believe it is natural and proper to mix commercial and residential together then by all means approve this amendment. But if you believe that any City worth its name protects the sense of community and its residential neighborhoods then you must be extremely careful. There seems to be still some ambiguity about the impact of this amendment, the unintended consequences. If he was on Council he would move that it be tabled until such time as the amendment is fine tuned to the extent that you know what the impact is going to be. If it is only this house, then you have to face the question of is it in affect spot zoning. But if it is not just this property then exactly, without any semblance of doubt, how many properties will it affect and what will be the ultimate impact on the City and its neighborhoods.

Vicki Evert, 2708 Bridle Path Place, wanted to address a few points from Mr. Scheirer. She explained regarding the green buildings at 2 West Market, the gentlemen in the book store was asked to vacate because the income from his rent and the property did not cover the expenses. The income was approximately \$13,000 dollars and the expenses to keep those buildings going; just in utilities was over \$17,000 dollars. Ms. Evert stated that Mrs. Schadt was a widow and she was not in the position to carry that business. She wanted to make that point clear. As a private homeowner she cannot fund that type of a loss. She thinks you will see that going forward if this becomes a private residence. Ms. Evert added that she disagrees with the point that we should wait to find out the full impact of this for two reasons. One is that you are putting a business and

business decisions on hold so future renovations to the property are on hold and it will be difficult to operate in that type of situation. Second, it is her impression that this is not spot zoning because whether it affects just this property or multiple properties she looks at this situation as this Board righting a wrong that was done. Four years ago was about when this property was given a variance by the zoning board and then given a Certificate of Occupancy by the City. She understands it was overturned in Harrisburg, but she does not believe that they understood the specific nature and the unique nature of this property. She has heard a lot about how this property could be a private home again. It is very hard to go back four or five years and recall the circumstances in which this home was granted its variance. Ms. Evert was a good friend of Mrs. Schadt and the Schadt family and spent many mornings having coffee and cookies at her kitchen table after they would walk the dogs. At the time she was looking for a home for her family. She had two children, a husband and dogs and cats and needed a larger home. When she was inside the home it was lovely, but when she walked outside she would say this is not a property for a family. There was no yard; she would not let her children play on that street. She believes that Mrs. Schadt was in a very difficult situation. She had a choice to go before zoning to ask for a variance for hardship because she could not sell her property. Ms. Evert is just witness to the fact that at that time she was looking for a larger property and this is a property that she turned down. She was a friend of the family, she looked at the property and she knew her needs and we turned it down. Mrs. Schadt could have gone before zoning to ask for a variance but she was 85 years old and determined that would be too difficult for her. Therefore, requesting that variance went to Mr. Rij. Had she been younger she might have been able to do that but we are talking about a widow who needed to move on. Ms. Evert explained this was a hardship for her and that is how we got to this place. She believes that the Zoning Board made the right decision in granting the variance and she believes that in approving the amendment Council will right the wrong that was handed down by Harrisburg; they did not understand this at all. Ms. Evert just wanted to give a personal account of someone who looked at this property and loves historic homes and loves Bethlehem, but this home was not suitable a family.

President Waldron announced a five minute break at this time before moving on to the business on the agenda. The meeting on December 4, 2018 was recessed at 9:45 p.m.

President Waldron called the continued meeting on December 4, 2018 to order.

5. OLD BUSINESS

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

6. COMMUNICATIONS

- A. *Director of Water and Sewer Resources – Recommendation of Award – Brenntag, Northeast, Inc. – Water Filtration Plant*

The Clerk read a memorandum dated November 27, 2018 from Edward Boscola, Director of Water and Sewer Resources recommending a contract with Brenntag, Northeast, Inc. for the purchase of Sodium Hydroxide (50% Liquid Caustic Soda) diaphragm grade for City of

Bethlehem Filtration Plant. The term of the contract is December 1, 2018 – November 30, 2019 and the fee for the contract is \$132,190.50.

President Waldron stated 10 A is on the agenda.

- B. *City Solicitor – Intermunicipal Cooperation Agreement – City of Bethlehem – Hanover Township, Northampton County – Bethlehem Township Municipal Authority – Sanitary Sewer Service Transportation*

The Clerk read a memorandum dated November 28, 2018 from City Solicitor William P. Leeson, Esq. to which is attached a proposed Ordinance and Associated Intermunicipal Cooperation Agreement for Hanover Flex Center Land Development in Hanover Township, Northampton County. The agreement is between the City of Bethlehem, Hanover Township, Northampton County, Bethlehem Township and the Bethlehem Township Municipal Authority for Transportation through Bethlehem Township Municipal Authority lines and treatment at the City of Bethlehem Waste Water Treatment Plant.

President Waldron stated Ordinance 9 C is on the agenda.

7. REPORTS

- A. *President of Council*

- 1. *Councilmanic Appointment –Brian Hillard– Environmental Advisory Council*

President Waldron reappointed Brian Hillard to membership on the Environmental Advisory Council, effective until January, 2022. Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-246 to confirm the reappointment.

Voting AYE: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Dr. Van Wirt, and Mr. Waldron, 6. Mr. Reynolds was not in attendance. The Resolution passed.

- 2. *Councilmanic Appointment –R. Michael Topping– Environmental Advisory Council*

President Waldron reappointed R. Michael Topping to membership on the Environmental Advisory Council, effective until January, 2022. Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-247 to confirm the reappointment.

Voting AYE: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Dr. Van Wirt, and Mr. Waldron, 6. Mr. Reynolds was not in attendance. The Resolution passed.

- B. *Mayor*

*Budget Meetings*

Mayor Donchez thanked Council for the Budget Meetings to give us the opportunity to review the 2019 budget. We are looking forward to the final budget meeting next Monday.

*2 West Market Street Support*

Mayor Donchez explained regarding 2 West Market Street he wanted to make a few comments. He thinks we have heard a lot over the last two meetings and he certainly respects the view of both sides. He supports the text amendment and encourages Members of Council to support the text amendment. He views the property and neighborhood as mixed use along with low impact in a transitional neighborhood. Mayor Donchez thinks that overall it is a benefit of us, the City. He does endorse it and supports it and encourages Council to support it.

C. *Human Resources and Environment Committee Meeting*

Mr. Callahan announced the Human Resources and Environment Committee met on Tuesday, December 4, 2018 at 6:00 PM in Town Hall. The Committee received an update on the Climate Action Plan. We talked about the watershed up in the Poconos for the carbon credits, the water quality and the windmills. He noted that Mr. Reynolds has done a great job in spearheading a lot of the environmental programs that are going on in the City. We are looking forward to moving forward in the next year.

8. ORDINANCES FOR FINAL PASSAGE

None.

9. NEW ORDINANCES

A. *Bill No. 45 - 2018 - Amendment to Intergovernmental Service Territory Agreement - City of Bethlehem, Northampton Borough Water Authority*

The Clerk read Bill No. 45 - 2018 - Amendment to Intergovernmental Service Territory Agreement - City of Bethlehem, Northampton Borough Water Authority, sponsored by Mr. Colón and Mr. Callahan and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, AUTHORIZING AND RATIFYING AN AMENDMENT TO AN AGREEMENT FOR INTERGOVERNMENTAL COOPERATION KNOWN AS THE "AMENDMENT TO INTERGOVERNMENTAL SERVICE TERRITORY AGREEMENT" BETWEEN THE CITY OF BETHLEHEM AND THE NORTHAMPTON BOROUGH MUNICIPAL AUTHORITY.

Voting AYE: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt, and Mr. Waldron, 7. Bill No. 45 - 2018 was passed on First Reading.

B. *Bill No. 46 - 2018 - Zoning Text Amendment - Section 1304.04 - Reuse of Corner Commercial Uses Allowed in the RT and RG Districts*

The Clerk read Bill No. 46 - 2018 - Zoning Text Amendment - Section 1304.04 - Reuse of Corner Commercial Uses Allowed in the RT and RG Districts sponsored by Mr. Reynolds and Mr. Callahan and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM, PENNSYLVANIA, AMENDING THE ZONING CODE, AS AMENDED, ARTICLE 1304,

SECTION 1304.04-REUSE OF CORNER COMMERCIAL USES  
ALLOWED IN THE RT AND RG DISTRICTS

President Waldron noted that a lot of folks have weighed in on this and in his five years on Council he thinks this has been the most emails and public comment that we have received where it has been split pretty solidly, he thinks tipping one way in favor over against. But the amount of support that has come out is a bit overwhelming. His email inbox was flooded this past week and prior to the Planning Meeting with a lot of thoughtful comments and a lot of folks who are engaged and energized for the first time as well as some folks who usually come out to voice their opinion. It was interesting to wade through all of those comments and hear all of those different perspectives. He thinks there are a lot of good points being made on both sides of the argument. Ultimately, we will have to make our initial decision tonight. He reminded that Council will have a second vote on this as well two weeks from today. President Waldron added that he imagines that just about everyone on Council has an opinion and wants to share it and justify their point of view and maybe persuade their colleagues.

Ms. Negrón knows this has been a long night and as President Waldron said we have had a lot of emails which is exciting because it means that people are involved. Mr. Antalics had said something at the beginning and mentioned the south side and she is a south-sider for now because she is soon selling her house. She added, as she was driving around the neighborhood it was sad to drive between Hayes Street all the way to Five Points. All you see are signs that say "student housing". She bought her house on the south side 21 years ago and it is just sad to see that and she appreciates that Mr. Antalics reminded her of that. Just one word made that change in that neighborhood; it is not the same anymore. Therefore, she will be voting opposing this amendment.

Mr. Colón stated we have all had close to ten hours about this matter. He was even not at the Planning Commission meetings and he recognizes the ones who came out to those meetings. He cannot add anything to the conversation that no one has heard already. He informed he came on Council in the beginning of 2016; he is finishing his third year as a Member of Council. This issue that we are all talking about tonight and have spent the last couple of weeks talking about, is something that predated him even getting on Council. He was not coming to these meetings yet when the City Council and previous Administration looked at changing the City's Zoning Ordinance in 2011-2012. Mr. Colón understands that was something that was a long process and that Mr. Evans, Mr. Donchez, and Mr. Reynolds were a part of that. He looked at old newspaper articles about that, and then there is talk about this corner provision that was in that previous write up alluding to different amendments. When he came on Council in 2016, at the time this was an idea that was floating around. So he met with Mr. Evans on an early March weekend and walked around neighborhoods and knocked on a couple of doors of people's houses. He understood that this was something that was being discussed and got a temperature of where the neighborhood was and tried to get a backstory to be familiar with it. At the same time it is no different than what we have been hearing. Some people are adamantly for it and some are adamantly against it. Everyone had their reasons and we heard all that. At that time he concluded that it sounded like it was an issue for the Zoning Hearing Board, that this essentially was a property seeking relief that is in an RT zoned district and was looking for relief to ease the burden of this home that sits on this very unique property with the house in the front and the green buildings in the back. Mr. Colón noted that was the beginning of 2016 when he came to the conclusion that it was an issue for the Zoning Hearing Board only to find out that it had been

denied by them and that denial had been upheld. It was applied to again and eventually it came back to the Zoning Hearing Board. We have heard this already. Only for then the applicant through no fault of their own, after getting the approval from the Zoning Hearing Board and being upheld at the County Court moved in and did the renovations. Mr. Colón stated Mr. Rij invited him back to that property to view it. He cannot deny what they did to that building was remarkable. It is wonderful. He was in there pre-renovations and post-renovations. He goes up and down that neighborhood all the time. We have heard all sides of these arguments and there is no denying what the intent or good will was of Morning Star, Mr. Rij's partners and everyone there to be a good neighbor and do a good job with the building. He continued to say on his time on Council we have had some long meetings, some long discussions and some contentious discussions about different issues. For him, this is his hardest vote because he sees both sides. It is kind of like 50/50 down the middle. He hears what everyone is saying and tries to listen with an open mind. He has taken his notes and has listened to everyone and has come to his own conclusion. At the end of the day he met with the realtor and talked about what some were alluding to and what houses are selling for and what are the circumstances. The hump that he could not get over was that this is a rather unique circumstance, with his discomfort in granting relief through a text amendment, where it had already gone through the previous processes of Zoning Hearing Board. He thinks it went through what the more traditional motions are for this relief and that is the hump he cannot get over now with this text amendment being kind of a way around all of that. Mr. Colón guesses he is at 51/49, and he will be voting against this today based on that kind of history of denial for relief through the other mechanisms.

Mr. Callahan noted every time he comes up to make a decision he always has two different factors. Number one is it good for the City as a whole and if it is he moves onto question number two, which is, it good for the surrounding neighborhood. That is basically where he gets his decision making process on this. He thinks this absolutely is good for the City as a whole. Is it good for the neighborhood? That is the big question. He signed onto the ordinance tonight just for the fact that it needs a second vote for a discussion. He was leaning favorably for it at the beginning and listening to all of the discussion and testimony and the neighbors. He remarked he that knows the neighborhood well since at one time he lived at 32 West Market, which is right next to Broughal and DeVito for a number of years. He met his wife there; got married and had children. They moved out of there when his son was two. He continued to say this comes down to the main question of where does the residential neighborhood begin and where does it end. The bottom line is that it does not. There is nobody that can tell him where the residential community in that neighborhood and that block begins and ends. Mr. Callahan stated not only is the property mixed-use, so is the neighborhood. The immediate neighbors are the cemetery, two school buildings, a bed and breakfast and that is all on one corner. There are two financial services, one is next door and another about five doors down and there is also a law firm and that is not even going up New Street towards Penn Pizza and the rest of the street. Mr. Callahan explained it is a very unique property and everybody understands that. He has heard some of the people against it saying it is spot zoning. He actually thinks it is spot zoning against the property. His question in looking at the property itself was he thought wrongly because it is a weird layout. He thought the property was actually two separate properties at one point. There has always been a commercial aspect there. He noted that Church Street is Church Street because there is a church on it and Market Street is Market Street because at one time there were markets on it. There were businesses on that street and always has been. If you want to talk about where the neighborhood begins the neighborhood component begins from New Street going down Market, from New Street down. There is no question that is primarily residential. He knows

there is a small business on the right hand side as you go down Market towards Linden Street. In this particular block from New Street down to Main Street there is no question it is a mixed-use. That the property was never subdivided and brought together, those three building have always been on one deed and always been a commercial unit and that deed in that lot was a commercial purpose use way before we even had a Zoning Board and before the City of Bethlehem was incorporated. Mr. Callahan stated he questioned his brother who was Mayor because he thought this should have been handled years ago when they redid the zoning. He guesses they tried to but had a lot of push back. As one of the speakers said tonight, he thinks this is our opportunity to right a wrong. He does believe this is spot zoning against the property. Because of that he will be voting yes on this tonight. He hopes and prays that all of the residents and neighbors that are in that neighborhood after this is over, whichever way it goes, can get along and move on past this. We probably had five meetings since he has been on Council that have been this long and this contentious. Mr. Rij he has been a good neighbor and has bent over backwards to open up his property to everybody and has done as much as he could to be a neighbor. He restored the property and above that front door, that addition was originally on there from the drawings from the early 1800's and was removed for some reason. He restored it back to its original historic look from the outside. Mr. Callahan also looks at the fact that Mr. Rij is a good citizen. Mr. Callahan respects the right of everybody to have their own opinion on this but he is just saying as residents of the City we are really pushing away people who want to invest in the City. He knows some business people do not want to do it anymore. They will go to Easton or Allentown, and they have. Mr. Callahan remarked that Mr. Rij could have gone to Allentown and had a nicer, brand new class A office space for less money per square foot. Someone has to pay the bills, if we keep on pushing away businesses and new development. He wants new development, but he wants that in the proper areas. Mr. Callahan thinks there is no question that this is a proper use especially with all of the surrounding neighbors and businesses around it. So he will be voting yes and he again wishes that everyone gets along. Mr. Callahan reiterated he appreciates everyone's input and he wishes Mr. Rij all the success in whatever this outcome is.

Mr. Martell thanked everyone who came out tonight. He recognized there has been a lot of engagement on this issue and a lot of great feedback, and stated we appreciate that and rest assured that goes into the decision making. There have been many good arguments and thoughtful responses on both sides. It is a difficult issue and you try to look at everything and all the possibilities and try to make a comprehensive decision. At some point like Mr. Gallagher said, you have to ask yourself what are we trying to do, what is the best thing to protect the neighborhoods, what is the best to protect the historic preservation of the downtowns and keep that charm that everyone loves in the City of Bethlehem. Mr. Martell noted the benefit is you know what you are getting. You can look at the project over the last year and you know what you are going to get. Many people spoke in favor of it and many spoke against it, but those people against it spoke of the positive impact that the investment and the current operation at 2 West Market is already having. He did not really hear anybody that is against it argue that there are current detriments to the neighborhood. He heard people being concerned about possible externalities, but when you look at that you are arguing counter factual, you are arguing a domino theory. What if down the road, this and then this and then this? If you argue that way you can argue against anything. Mr. Martell noted we are looking at this particular issue in front of us and we are looking at what the situation is and what is has been. He does believe that the amendment has enough measures in it to mitigate some of those concerns. It is rather tight in terms of what would be allowed. Anything that would happen elsewhere would have to go in front of the Zoning Hearing Board. So for all those reasons he will be supporting this amendment

tonight. He reiterated that he appreciates all of the feedback and everyone coming out and staying until the end.

Dr. Van Wirt thinks that everyone here knows how she feels about this so she will keep her comments brief. She would like to say that she very much agrees with Mr. Colón and his assessment of the fundamentals of the process and how the process went its way out and how this is kind of an end run around the process; those are her words. That is something that she has difficulty with. We have all talked about how this may be a precedent. There is no way to know exactly what this would mean but precedent is important in the City. She informed if there is any argument that we need to know what precedent is, look at the Hill to Hill Bridge where the digital billboard went in on the northwest side. She understands why that deal was made. It was a good deal for the City at the time. Dr. Van Wirt added it also set a precedent such that Airbnb now wants to put one on the south side and is suing the City for the Zoning Hearing Board not allowing that to happen. That just shows you that precedent can be profound and we do not know how this amendment will affect the City. It has not been studied, it has not been advocated for vociferously by our Planning Commission as being part of the comprehensive plan which is what we are supposed to be using to guide our zoning decisions. In addition, this entire corner will become more commercial, not less. The Bethlehem bed and breakfast across the street also came before the Zoning Hearing Board a few years ago asking to be turned into an office building and the Zoning Hearing Board turned them down. The pressure for changing residential to commercial in the beautiful historic district is relentless. Dr. Van Wirt explained this is a perfect example of that pressure particularly in zoning areas where you are on the border. This is not a place where you allow commercial intrusion in. Borders of residential zoning areas are the fragile places where that has to be the red line or less that continued commercial creep is going to come in and completely change the character of our downtown. It will happen because just like the Rij's understandably wanted to have their business down in the historic district, other businesses want to do it too. There is cache, it is lovely, people want to come and visit them there. Dr. Van Wirt thinks that the risks of this happening far outweigh the benefits that have been talked about tonight. In terms of the Planning Commission, which she did go to, the two commissioners who voted against the amendment spelled out their concerns for this amendment clearly. They said why they could not support it. However, the two commissioners who voted for it did not give any justification whatsoever. That really troubled her a lot. Dr. Van Wirt stated there has been so much talk about how the Rij's are nice people, they are great Bethlehem citizens, and they give money to local charities. When it comes to City Council we are not in the business of judging on the merit to a change in our City's zoning code based on someone's aesthetics, their wealth, their access to connected lawyers. We are in the business of judging that the laws we pass are in the best interest of all of the City and all of the citizens of the City. She expressed someone's personal characteristics and aesthetics and impact on that corner, all of that is secondary to what are we doing for the whole of the City and how does this move past the litmus test of the question of is this in the best interest of the City of Bethlehem and its citizens. Dr. Van Wirt fully understands why this is in the best interest of Quadrant and the Rij family. They did a great job on the building but it does not pass the litmus test of being in the best interest of the City. That is fundamentally why City Council is here, as a representative body of the citizens of Bethlehem to do. Dr. Van Wirt stated she will not support this tonight.

Mr. Reynolds mentioned as he was trying to think about how to make a decision on this one. It certainly is not an easy situation if we look at the emotion that is invested on both sides. One thing that he 100% agrees on with his colleague Dr. Van Wirt is that we have to take the

emotion out of this including the personal recommendations of Mr. Rij. But we also need to take out the animosity towards Mr. Rij and the frustration that has come from there being Zoning Hearing Board action before it came to us. Mr. Reynolds understands why this has increased the frustration for many people and why people look at this as if it failed one way and now they are coming to us. That is not an argument to him as far as what the right public policy decision is and what the right thing is. Mr. Reynolds is going to try to give a rational explanation of where his vote is coming from. When you look at this, one of the first questions you have is if this is unique to this particular property in this particular neighborhood, or does this have an effect across the City, and what would those particular effects be. We heard a lot tonight about ruining neighborhoods and opening doors. One of the things he thinks of is, what is the worst possible solution that happens here if this ordinance is passed. Also, that is that somebody goes to the Zoning Hearing Board and tries to get a special exception for one of the following office uses. He read proposed section b(7) "The office uses to be permitted under this section shall be limited to those of medicine, law, architecture, engineering, art, religion, music, insurance, real estate, psychology, accounting and financial services." Mr. Reynolds is not someone that does not have a lot of belief in the Zoning Hearing Board or the Planning Commission or the various parts of this process. He does have a question for Council Solicitor John Spirk. One of the things that came up tonight is the idea of spot zoning and that somehow this could potentially be spot zoning. Mr. Reynolds asked Mr. Spirk if it would be possible to explain a little bit about what is the kind of concept behind spot zoning, and where this potential ordinance in front of us affects that concept.

Solicitor Spirk explained spot zoning generally is when you single out one lot for differential treatment from similar land unjustifiably arbitrarily. For example, there is a famous case where a rural land, rural zone and they rezoned an oval right in the middle of it for a motorcycle race track. That is identical land, different treatment, which is spot zoning. Several months ago Council approved a zoning map change at Broad Street for the Skyline West development; Mr. Park's project treating that spot differently from the surrounding land, but that land was unique. It was an orphan lot cut off by Route 378 on one side and Monocacy Creek on the other, a steep slope in his opinion, not spot zoning. Both times land was treated differently than surrounding land but in the one case the land was unique, and in the other case it was different. So the uniqueness, in his mind, plays a role as this lot in question here has been talked about. History is instructed too, he thinks, and in 2012 Council, when they passed the revised total zoning ordinance it already singled out residential corners at that time for different treatment from their neighbors for what they thought were very good sound land use reasons. They singled out some corners for different treatment, those with abandoned old commercial uses. It seems to him this amendment is merely amending that by saying, and you can also do it at corners with unabandoned commercial uses. Solicitor Spirk noted in that sense to him it is not terrible spotting. He noted that spotting was done six years ago and this is adding another spot that was fairly similar, a corner that has commercial use to the extent that it is treating it differently from its neighbors. Again, there has been substantial evidence of its uniqueness. It has an ancient non-conforming use that is still there and an arms-length away from the main building. Solicitor Spirk stated his legal opinion is it would not be spot zoning caveat in law. Like in medicine, there are no guarantees. In his four decades that is especially true with Pennsylvania appeals courts. He is not guaranteeing anything. Caveat number two, in his four decades it has been his general rule with clients that telling them one can legally do something does not necessarily mean that one should. That is a separate question.

Mr. Reynolds thinks the conversation six years ago when we started talking about whether or not we should look at corners differently was one part of this particular conversation. It was the question that came up at the time and Ms. Heller probably remembers the meetings better but it was a question of under what circumstances should there be office uses. It was discussed about how do we protect this against that and so on and so forth but the conversation occurred at that time. He does think that when you look at the uniqueness of this particular property and what abuts it and what abuts it in the future, when you look at what hopefully occurs in the future, is that whatever happens with the Walnut Street Garage will hopefully provide more activity. Mr. Reynolds stated there has been a lot of discussion that if there is a new Walnut Street complex it could involve some type of commercial or retail activity. The thing that was most interesting to him tonight, and has been over the last several weeks, is that there are vigorous supporters on both sides that have very similar histories of people who have lived in the neighborhood for decades. These are people who live next door or might live down the street, some are very much in favor of this and some of them are very much against this. At some point, when he worked past the uniqueness of this, he explained that he asked his mother about her thought on this because down the street from where his parents live is a commercial property with apartments next to them. She responded noting if somebody is going to put money into it and make the neighborhood look nicer, she really would not care what it is as long as it is not a detriment to the place where she has lived for 40 years. As he heard different people speaking here he started to wonder why there is such a difference of opinion with people that care about historic preservation, have invested a lot in their neighborhoods and properties, and generally are on the same side on a lot of issues. He expressed some people might have rather had an office than multiple apartments; some people might look at it that if you have multiple apartments that it would be harder to turn that into a single family home. Some people might say no to an office because they believe that a sale could come to a single family home. Mr. Reynolds really thinks there are different people in this room that have a different definition of what it means to live in the neighborhood, and that is what separates people. That is what has separated people in the City and other places for a long time. He is going to say something that he knows many people will disagree with, and that is he does not want all residences in his neighborhood. He is not afraid of different things being in his neighborhood. Mr. Reynolds stressed in his neighborhood, a block down the street on the four corners is Carl's Corner, which he does not go to, a doctor's office, which he does not go to, Fratelli's pizza, which he goes to occasionally, and a hair salon which he does not go to either. At the same time, those uses and services are not a negative for his neighborhood. He is not saying that because he lives in the historic district, he does not. He lives in a half a double on Elizabeth Avenue but there are people who live in the historic district that are not offended by what is going on here or not worried about what is going on here. Mr. Reynolds explained there can be questions about our motivations, but he would like to know the motivations of the people who have lived in this neighborhood for a long time. What are the motivations of the people that have been paying property taxes and taking care of their neighborhood in these houses for a long time? That is the question that he keeps coming back to. That idea of what it means to live in a neighborhood and that it is okay to have commercial uses, and he would not even mind more commercial uses in his neighborhood, that would not take away from what he thinks is the fear that people have. He does understand that many people do not want potential commercial uses. What he sees on this list of uses are not things that he would not want in his neighborhood. He would not do this because he sits in enough meetings, but if someone came to the Zoning Hearing Board and said they want to put one of these uses on the corner down the street from him, he would probably write an email too or say that is a good idea. Mr. Reynolds noted people have a different idea about what they want in a neighborhood. The

one thing he agrees with is that if you do not want any commercial in your neighborhood there are townships everywhere that are built on that general idea, that we can drive to our township, we can park and we can go somewhere else. He really thinks that explanation for what separates people here is important. Mr. Reynolds heard Mrs. Virgilio say this twice, but his overarching feeling on this whole issue is one of sadness. He does believe that the animosity and the disagreement that is being created between these hours and hours of meetings is a much, much bigger threat to the neighborhood than what happens at that one property. Mr. Reynolds hears things like this is a cancer and unpleasant neighborhoods to live in and all of these different things which he does not understand. The last thing he would say which might annoy some people is that this is not even a problem. What if you went to any other neighborhood in the City and you said someone wants to invest this much money into the neighborhood. We sit through these Northside 2027 meetings, and he says that as a positive, and you hear about the issues that are affecting other neighborhoods as far as affordability of housing, basic services such as healthcare, childcare access and what is going on the neighborhoods that surrounds Thomas Jefferson and William Penn schools, access to healthy food, walkability, recreation, low to moderate income families and the struggles they face in some of our neighborhoods. He is just thinking that we are investing a whole lot of time in something, that to somebody that does not live here, does not look like a problem. Mr. Reynolds remarked that he is going to vote in favor of this ordinance. This is not the end of this, we will vote again in two weeks, and someone has already said that this will not end until someone feels like they won and that is the end of it. That is sad and unfortunate also because this is not the way he thinks things should be handled. He will vote yes, but the overarching feeling he has is of sadness that is has come to this, and we have invested so much time in what he truly believes is not that big of an issue.

President Waldron agrees with many of the points that were made by the speakers, people who emailed, and his own colleagues have put a lot of time and thought into this vote and where they come down on the side of it. He pointed out that Dr. Van Wirt made some really strong points and he agrees with much of what she said and likewise with what Mr. Reynolds just summed up about what our neighborhoods and what is the feeling that you want in a neighborhood. You can come down on either side of this vote depending on who you are speaking to and who is in front of you advocating passionately for their neighborhood. This will be a 4-3 vote tonight which is a rare thing on this Council because most of the time we vote 7-0 because there are really clear answers and clear solutions to problems. This is one where it is a little bit trickier. President Waldron noted last night we had our fourth Budget Hearing Meeting in which we were discussing a \$78 million dollar budget for our City including a tax increase of 3% and we ended the meeting with one person from the public who was here to be part of that meeting. This goes to show you where a \$78 million dollar budget lines up with how people passionately feel about their neighborhood. He thinks that shows the level of engagement in both a positive and negative say, depending on how you want to look at it. President Waldron advised ultimately this comes down to the point of what Dr. Van Wirt said, is this a net positive for the neighborhood and for the City. President Waldron stated he comes down clearly on the side that yes, it is. So he will be supporting the amendment this evening.

Voting AYE: Mr. Callahan, Mr. Martell, Mr. Reynolds, and Mr. Waldron, 4. Voting NAY: Mr. Colón, Ms. Negrón, and Dr. Van Wirt, 3. Bill No. 46 - 2018 was passed on First Reading.

- C. *Bill No. 47 – 2018 – Intermunicipal Cooperation Agreement – City of Bethlehem – Hanover Township, Northampton County – Bethlehem Township Municipal Authority – Sanitary Sewer Service Transportation*

The Clerk read Bill No. 47 – 2018 – Intermunicipal Cooperation Agreement – City of Bethlehem – Hanover Township, Northampton County – Bethlehem Township Municipal Authority – Sanitary Sewer Service Transportation, sponsored by Mr. Colón and Mr. Callahan and titled:

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, AUTHORIZING AND RATIFYING AN AGREEMENT FOR INTERMUNICIPAL COOPERATION KNOWN AS THE “INTERMUNICIPAL COOPERATION AGREEMENT FOR HANOVER FLEX CENTER LAND DEVELOPMENT IN HANOVER TOWNSHIP, NORTHAMPTON COUNTY, PENNSYLVANIA FOR TRANSPORTATION THROUGH BETHLEHEM TOWNSHIP MUNICIPAL AUTHORITY LINES AND TREATMENT AT THE CITY OF BETHLEHEM WASTE WATER TREATMENT PLANT” BETWEEN THE CITY OF BETHLEHEM, HANOVER TOWNSHIP, NORTHAMPTON COUNTY, BETHLEHEM TOWNSHIP AND THE BETHLEHEM TOWNSHIP MUNICIPAL AUTHORITY.

Voting AYE: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt, and Mr. Waldron, 7. Bill No. 47-2018 was passed on First Reading.

## 10. RESOLUTIONS

- A. *Authorizing Contract – Brenntag, Northeast, Inc. – Water Filtration Plant*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-248 that approved a contract with Breenta, Northeast, Inc. for the purchase of Sodium Hydroxide (50% Liquid Caustic Soda) Diaphragm Grade for City of Bethlehem Filtration Plant.

Voting AYE: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt, and Mr. Waldron, 7. The Resolution passed.

*Motion – considering Resolutions 10 B through 10 H as a group*

Mr. Martell and Ms. Negrón moved to consider Resolutions 10 B through 10 H as a group.

Voting AYE: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt, and Mr. Waldron, 7. The Motion passed.

- B. *Certificate of Appropriateness – 306 South New Street (St. Luke’s Hospital)*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-249 that granted a Certificate of Appropriateness to install a new sign with 3/8 “ brushed aluminum letters, stud-mounted to the building at 306 South New Street (St. Luke’s Hospital).

C. *Certificate of Appropriateness – 306 South New Street (Lehigh University)*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-250 that granted a Certificate of Appropriateness to install a new sign with 3/8" brushed aluminum letters, stud-mounted to the building at 306 South New Street (Lehigh University).

D. *Certificate of Appropriateness – 306 South New Street (ZEST Restaurant)*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-251 that granted a Certificate of Appropriateness to install a new sign with exterior illuminated stainless steel letters painted black onto the metal façade of the northeast corner facing West Third Street of the building at 306 South New Street (ZEST Restaurant).

E. *Certificate of Appropriateness – 306 South New Street (Sagra Beans)*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-252 that granted a Certificate of Appropriateness to install a new sign, non-illuminated with painted acrylic letters mounted to the existing silver sign band and to install logos on the entrance doors at 306 South New Street (Sagra Beans).

F. *Certificate of Appropriateness – 129 East Third Street (Food Geeks)*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-253 that granted a Certificate of Appropriateness to approve the addition of a new sign measuring two feet by seven feet at 129 East Third Street (Food Geeks).

G. *Certificate of Appropriateness – 401 East Fourth Street*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-254 that granted a Certificate of Appropriateness to approve the newly-installed roof at 401 East Fourth Street.

H. *Certificate of Appropriateness – 114 West Fourth Street*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-255 that granted a Certificate of Appropriateness to renovate the exterior of the Grace Mansion at 114 West Fourth Street.

Voting AYE on Resolutions 10 B through 10 H: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt, and Mr. Waldron, 7. The Resolutions passed.

I. *Certificate of Appropriateness – 13 West Morton Street (Denial)*

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-256 denying a Certificate of Appropriateness to build a four-story building, with revision; install an ornamental upper cornice at 13 West Morton Street.

President Waldron noted to be clear we do not get a lot of denials from the HCC or HARB. He clarified for everyone's understanding that a vote of AYE is in support of the Historic Conservation Commissions recommendation to deny and a vote of NAY would be to not follow

the recommendation of the HCC to deny the application. It is his understanding that the applicant went before the HCC multiple times and the HCC asked him to come back and it was still not to their liking or what was requested, and so they voted to deny an ornamental cornice at 13 West Morton Street.

Mr. Reynolds then asked for some information from the Administration or someone about this.

HCC Chairman Philip Roeder then explained that 13 West Morton Street had come before the Commission three times. They started out as a seven story building and ended up to be a four story building. One of the last details that came to us at the last meeting of November 19, 2018 was the top cornice and something that we talked about was it was to remain plain because of the scale of the street and the scale of the building. It is a small building on a small lot. The owner had come back to the HCC and he believes what happened was the owner's representative had been there the month before and told them a few things that were not exactly correct. When the owner did come to us he had a very ornamental cornice work that mimics something you might see on Third Street. The detail did not even match how it would fit on the building and we did deny it. Soon after the denial we did talk about it and he thinks we have a solid agreement that the owner will go back and make it a much less ornamental cornice and we can then approve it. Otherwise, the rest of the building was approved at previous meetings. So we are down to just one last item.

President Waldron asked if there is a reason you did not just send him back again.

Mr. Roeder noted for whatever reason he thinks the owner wanted an answer and we did not table it, we gave him an answer and it was a denial.

President Waldron mentioned it is his understanding that a vote of AYE would be in his opinion in order to back up the HCC on this one and give the applicant another opportunity to come back with what they requested. Again, it is a vote of AYE to support what the HCC recommended.

Voting AYE: Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt, and Mr. Waldron, 6. Voting NAY: Mr. Callahan, 1. The Resolution passed.

*J. Certificate of Appropriateness – 306 South New Street (Grille 3501) (Denial)*

Mr. Colón and Mr. Callahan sponsored Resolution 10 J denying a Certificate of Appropriateness to expand the dining area onto the deck at 306 South New Street (Grille 3501).

Mr. Roeder explained the denial for the porch addition at 306 South New Street and noted it was a porch addition to the sixth floor measuring 47 feet by 12 feet on an existing building measuring 163 feet by 128 feet. The 128 feet is along the East Third Street side. The porch is on the north side of the building. After a quick calculation the new addition encompasses approximately 36% of the Third Street façade on the sixth floor. He thinks that our historic officer Jeff Long summed it up best by saying in his minutes that "HCC Members specifically recalled the approval of a sixth floor for the already tall structure was predicated on the condition that the top floor be recessed 12 feet along West Third Street and have a thin projecting roof to diminish

its visibility from street level.” When the building was originally designed Mr. Roeder believes the owner/developer came to us at least four times. During those four times we took a lot of information and distilled it down to the building that is there today. One of the provisions we were looking for was a building that did not look as tall as a six story building. What the architect came back with was that he would take the sixth floor, set it back 12 feet and when you look at the building you see the first five floors and the sixth floor would look something like a penthouse or a tall parapet in the background. That is what we achieved and that is what everybody agreed upon. Mr. Roeder pointed out this new porch came to us and it does project out to the street side. It does not project beyond the building but it does project right up to the edge of the building and hence the denial.

President Waldron related he had the opportunity to walk through with the construction management company so he got to see the space from the inside which is not really the point of the matter. It is really what the aesthetic is from the exterior. If you are standing in front of the building you cannot see this addition, it is when you cross the street moving north especially on the Fahy Bridge it is quite visible. We have some images in front of us of what the current state is of that space that is currently tarped off, that is the area in question with the blue soffit that goes across the top. President Waldron remembers when this was originally approved and when the COA came to us recessing the sixth floor to try to diminish the height of the building in its appearance was a real sticking point. He does understand the quick denial of 8-0 with an abstention because that goes against what was originally applied for. Clearly that was not what the HCC wanted and was agreed to originally. This is in the historic district but it is not a historic building by any means anymore. This has not come across our desk before where we are talking about a non-historic building and what is the HCC’s role in the aesthetics of that in the recommendations to Council on new construction.

Mr. Roeder informed the Ordinance reads that any addition comes before the board, so we looked at this as an addition.

President Waldron noted clearly there was a miscommunication because he is not sure what percentage was done, but typically those requests come before the construction starts.

Mr. Roeder stated President Waldron is correct. The construction did begin well before we asked them to bring it before the Board.

President Waldron understands they went through the permitting process with Ms. Karner’s office to get the building permits. Somewhere along the line someone dropped the ball so that it puts Council in a difficult position when construction is already a good clip along to say where do we go now.

Alicia Karner, Director of Community and Economic Development explained that is accurate and she wanted to make sure that everyone understands that the applicant came in, this was submitted to our office. We reviewed it as if it were an interior fit out and really not making the connection to the exterior portion of the building and issued the permits and gave the authority to move forward with the project. It was not until the project started that Mr. Roeder or someone on our staff that it came to the attention that there is the exterior component to the project and we approached them to ask to go through the HCC process. Ms. Karner stated

President Waldron is correct in the sense that we issued the permits, gave the authorization to proceed and then sent them to the HCC.

President Waldron advised the story he got from the construction management company is that they are typically not the individuals that do the application; it is usually the design side, the architect who knows more about this and handles that. But for different reasons that did not happen so essentially someone forgot to come to the HCC. His thought is that even if they had come before the construction, it still would have been denied. We are not in that position so there is no sense in answering that.

Mr. Reynolds asked if he is correct to say that the applicant went ahead with the work under the City granting them a permit even though internally we should not have granted the permit for the work they were asking to do because it went against the original HCC resolution that we passed.

Ms. Karner noted it was a much bigger request; it was an interior fit out request. You build a building and then you come back in and pull the permits to do the interior of the property and this was coupled with that. So what happens is we are reviewing it as the interior fit out, the sixth floor restaurant in this case, and did the review, made sure that everything was consistent with the building codes and issued the permit. So yes, it is one of those instances where she could probably count six hands that it went through where no one picked up on it.

Mr. Reynolds mentioned the conversation that occurred then after the denial, what was the conversation about what should be done then about the work that was done under the permit being granted when six hands saw this. Was there a conversation about how it is supposed to be remedied here?

Mr. Roeder stated there was no conversation other than to stop any additional work outside. His comment prior to that when he first asked the contractor to come in to have it reviewed was he understood that the building was open to weather. This is a term used in the construction industry when you take a roof off a building or you open up a wall that you either have to close it in quickly because weather is going to come into the building or you leave it open and risk more damage to your building. Mr. Roeder said to at least get it weather proofed and that is what they did.

Mr. Reynolds noted since there was the denial, it seems like one of two things can happen. Either the work that was done under the idea that the City granted this permit needs to be taken down or we just need to approve this under the idea that the applicant came in and were not told not to do what they were granted the permit for.

Mr. Roeder stated these are less than ideal circumstances.

Mr. Reynolds would say that is accurate.

Mr. Roeder mentioned going backwards at that point because of all of the structural steel involved would be very difficult.

Mr. Reynolds related because of the denial and all of this was explained to the people on the HCC about why this was the situation as it played out their belief was that they should just vote against this certificate. He knows in the past, like in the last applicant there was a denial, but there is a conversation about what would be the next step and make this right and move ahead. But you are saying that this did not happen with this.

Mr. Roeder stated no, the contractor did not ask for any additional comment. Typically, Mr. Reynolds is correct, we are always looking to solve problems and not continue with the same problem and often there are conversations after about how to remedy things and ensure it will be successful at the next meeting if they want to return and that did not happen in this case.

Mr. Reynolds mentioned with the Morton Street COA denial we upheld the HCC recommendation and he felt good about it because Mr. Roeder had provided the road map about how we could get past this and then support it. There is no road map and it is just that Council is being asked to approve this in less than ideal circumstances. Part of the reason this work went on is that we did not stop it when we should have.

Mr. Roeder stated that is correct.

Mr. Callahan informed he had a chance to go over to the building and take a look at this situation. Prior to going over there his thought process was that this change was extruding from the existing exterior wall. In his view, if you look at the pictures, it is just a minimal change. Also there is the fact that the developer did go through the process and the mistake is on the City's part. He talked to the developer and the restaurant owner about it and why they needed it. There is nothing extruding from the existing exterior wall and if you look at it you see it is not even half of the way down on the one side. To his understanding there will be sliding glass doors or windows to open it up for outdoor seating. If it is raining or the weather is inclement they have the ability to slide the doors closed. Mr. Callahan believes this is such a minimal change that he does not see a problem with it especially considering the fact that the work has already been done. In addition, they did not do anything improper. They went to the City and got the certificate and permit for it. In order for us to allow this we will be voting NAY.

Mr. Colón asked historically when the HCC sets forth these conditions is the responsibility then on the applicant to keep track on what those conditions were or on the City then to double check addresses against previous HCC meetings and rulings. The way he is looking at this is that you could look at this as if we always kind of advise someone of something before issuing permits, saying you are good to go. That is one way, and then say the City overlooks something, which is where it is at. Or has it always kind of been on the applicant to understand that they knew what was laid out for you by the HCC and then maybe someone on their end overlooked what the parameters they were supposed to be operating in. He wonders what it has always been.

Ms. Karner stated typically when the staff receives an interior fit out, a permit that is not relating to the exterior of a property there is no review in an eye towards HCC. She continued to say when we get a building permit for a new construction and it is in the historic district there is a general awareness of what those projects are. Usually there is communication with Mr. Roeder in that instance because he is our representative to both HARB and HCC, so there is multiple hands that it goes through. Frequently, if there is a lack of awareness of a project somebody seeks that

information out. Ms. Karner explained that when we get a permit for a project that is interior, that conversation does not occur in the same way. So it is a highly unusual circumstance for us and something that she has no excuse for other than this was an error that was not caught by several people in the department. She thinks there is a significant responsibility on us when we issue a permit inadvertently and whether that is in a historic district or for the construction of a project, that did not go through land development or whatever it is, that is a problem. Ms. Karner informed that they always work with our development community who is generally well versed on our ordinances so she would never let anybody completely off the hook in any circumstance. She really feels a sense of responsibility in this instance because it came in as an interior fit out and we moved it through a process and it was looked at by many people, it was issued and there was an authorization to proceed.

Dr. Van Wirt queried if interior fit outs usually include exterior modifications on them when people bring in their plan

Ms. Karner stated not typically, and added that it is highly unusual.

Dr. Van Wirt wondered if Ms. Karner would really say the onus is on the City then because if the developer was aware that there had been a requirement for a 12 foot set back on the sixth floor she does not understand for an interior fit out, a bump out of 12 feet for an exterior modification would have been included on that. To her she cannot assign the City full blame there. She thinks that if you are going to submit interior fit outs, that is all it should contain.

Ms. Karner replied yes, especially she appreciates that when we look at plans, although she does not review plans, but it is very two dimensional. You are looking at a piece of paper and you are looking at what is a building footprint. She would ask him specifically why that did not come about. Ms. Karner does appreciate the desire of Dr. Van Wirt to not put her department completely in the wrong. She does understand and again, she does think there is some responsibility on our developers to insure that they are following what our rules are but, we did issue the okay.

Dennis Benner stated he is at this meeting in a representative capacity for Grille 3501 LLC and with him tonight is John Trapani who is the owner of that restaurant. Mr. Benner can say that Mr. Trapani is not skilled in building work. He actually echoes what Ms. Karner and the City is saying here. He can understand how something like this might have happened. It is not like Mr. Trapani just went out and did something without any request to the City. Mr. Benner explained that Mr. Trapani spent over \$2.5 million dollars fitting this restaurant out so the last thing he needs would be some kind of problem with the City or anything else. It was brought to the attention of Mr. Trapani through his construction party. They came to the City and when Mr. Benner reads the correspondence from the HCC to City Council, he is not sure what the reason was. He suspects a component of it was that when this was built or approved as a six story building one of the reasons was Mr. Roeder suggested it has to be set back to make it appear like it was not six stories. There is only one location where you can even see this piece of construction and that is coming over the bridge and when you come over the bridge you see the entirety of the sixth floor. It is not like there are some materials that have been changed or glass has been changed. Mr. Benner noted when this is completed and the tarps are off of it this will look like it was there forever. You do not see dimension when you look at it from the north coming to the south. It does look like it has been there and like it has been designed right along with the

building. Mr. Benner explained that Mr. Trapani is somewhat perplexed by this to the extent that there was an error made but he is not sure where it really is. He does not think the City has any issue here. Mr. Benner informed he asked Mr. Trapani to come to this meeting and address Council with what he is doing and why he is doing it.

Mr. Trapani informed he has been living in the City of Bethlehem for 20 years; his wife and children were born here. They have a successful restaurant in Allentown and are bringing it to Bethlehem. He expressed we filed those permits, the interior fit out to build a restaurant, whether that is an interior fit out or an enclosure on the porch. That is what our objective was. We are close to opening up in about a month and he is asking Council to approve this because he did spend \$2.5 million dollars on this and would be ruined if this does not happen. He remarked we do have many things going, we are a finalist for a new television show that will be on Food Network called Opening Night and it would be great to have it there for him and for the City. Mr. Trapani stated there was no ill intent; he did not try to sneak anything by. He stated they just wanted to build a restaurant with that enclosure so we can open it up. Mr. Trapani is asking Council to approve this.

President Waldron asked Mr. Trapani at what point he became involved with Mr. Benner as far as leasing the space on that sixth floor.

Mr. Trapani informed he would say not quite a year ago.

President Waldron explained obviously it was not known to you unless you are paying pretty close attention to City matters that the sixth floor had a 12 foot setback.

Mr. Trapani stated the only thing he knew was that the terrace up there was extremely attractive. He just found out about this recently when the HCC told us what was going on; it was only within the past few weeks.

President Waldron noted unless you know the rules of the HCC it would not necessarily be on you but it would be on the City and the building owner, Mr. Benner in this case, to know what the HCC requires and what they are asking. It was very clear that the HCC did not want this to protrude out to the edge; they wanted that setback on the sixth floor because they thought it would lessen the height. Looking at this picture there is a strong argument that it would not really matter anyway because you have that corner which is on the northeast corner which is a bump out and in line with floors one through five anyway. So there is a portion of this front facing area that comes out and if you go further to the east of the building you have a fin which rises up over the entire height of the building, in fact higher than the sixth floor, so that even adds more height to the building. President Waldron explained that Council is in a tough position now, because if we say no there are many questions that still have to be answered. This is a difficult situation that Council has been put in because multiple people missed an opportunity to get it right the first time.

Mr. Benner added that when Mr. Trapani and his company entered a lease this restaurant was not even designed, so we did not even know.

President Waldron mentioned the HCC would make the argument that you should have known that the sixth floor could not be expanded out because that was a point of contention and

several of us were on Council at that time. They had made it clear that they did not want that to be faced out any further, they wanted that setback consistent. President Waldron does understand the perspective of Mr. Benner, that when you are on the bridge it does not make a difference anyway because you are not adding height to the building and from the bridge, which is just about the only area you can see that, it really is de minimus. President Waldron stated in his opinion he does understand the HCC perspective, and all things aside, even if you came to us before he probably would be in favor of supporting this addition here regardless of being in this difficult position now where the work is nearly completed. He would think that it is a small impact and he does not think it adds any height or size. The size of this building looking at it from north to south, is pretty impressive, so this small little area that will be put on here, he would agree it looks like it always has been there. His perspective is that we respectfully reverse what the HCC recommended to us this evening.

Mr. Colón sees where this is bumped out and noted that the rest of that is a patio and when the weather is nice people can stand out there.

Mr. Benner stated that is correct.

Mr. Colón mentioned in terms of not noticing anything from April through early September you will see people standing out there, it is not as if you will not be aware that there is another floor up there. Obviously, this is an undesirable situation for pretty much everybody. He queried if internal conversations have occurred, given the uniqueness of the circumstances, to prevent something like this in the future.

Ms. Karner stated certainly, we are not going to not talk about an error like this. She does want to remind everyone of the thousands of permits that we process; we presented a number in the 2,500 area through the end of September. It is not as if there is not a significant volume that goes through the office. She can assure Council that they are evaluating that process.

Mr. Colón agrees that he does not think that anyone was trying to circumvent the parameters that were laid out by the HCC. He wishes them all the best moving forward. Given the circumstances of how this played out, and where we are at with the construction already done, he would be in favor of voting against the HCC recommendation.

Mr. Reynolds added that he thinks if the HCC denies something and to not have anybody offer a potential solution puts City Council in an almost impossible position. We are up here trying to decide what we think should be done with something that HCC voted no on but did not necessarily give any guidance about how it gets remediated. That is an impossible position. He agrees, we are not in a position here from a practical point of view to uphold this after the work has been done and no other solution has been provided that we do not then have to come up with at 11:20 pm after a four hour meeting. Mr. Reynolds does not think that is the reason why we are supposed to be getting these recommendations from the HCC. We are getting these recommendations from the HCC saying no, this is what we think should be done or saying yes, we approve what it should be. Absent of that in this difficult situation he does not think there is another choice because what is our other choice.

President Waldron noted the other choice would be to tell them to tear it down which obviously is not a small ask and no one would want that. A big question that has not been asked

is what is the cost of this fit out, this additional area that has been constructed because that was not in the original plans?

Mr. Trapani stated that was in the original plans, maybe not in the building plans but it was in the original restaurant plans and part of the package which is over \$2.5 million dollars.

President Waldron advised it would not be easy to cut that out and say that this little area here cost a certain number of dollars.

Mr. Trapani does not know.

President Waldron added it would be easy to say to take that area out would be catastrophic.

Mr. Trapani noted that is a perfect statement.

Dr. Van Wirt stated she does have a problem with this whole thing. Addressing Mr. Trapani she expressed when you entered into negotiations with Mr. Benner she would expect one of the main things that you would have discussed is the square footage of the restaurant, what it includes and what it does not include. That would have been the appropriate time to determine whether or not this was allowed by the HCC guidelines. That is where she is completely lost in how this huge mistake suddenly got built out and now we are in this terrible position that doing something that seems illogical. At the same time, she feels this building is far too big and that the setback on the sixth floor was done intentionally and with great thought and intent. Also to understand that there was a negotiation between you two that did not squarely cover what was allowed and what was not allowed. Dr. Van Wirt has a hard time with that. She remarked that this is going to last for hundreds of years, and the bulk of this building does have an impact on downtown Bethlehem. The pictures were taken from the street; you can see it from the street. This is tough for her to go against the HCC when she does not understand how two good, strong, smart businessmen can neglect to discuss the square footage of a big restaurant like this.

Mr. Benner stated he did not even negotiate, his working people did, and they brought a lease in.

Dr. Van Wirt stated whoever is responsible.

Mr. Trapani informed when we were talking about it, the leasing agent definitely said that I wanted to do that. It went to the architect and he drew it up. We put in for the building permit and got the building permit.

Dr. Van Wirt thinks that the building owner has a role in overseeing your approach to how you will outfit this restaurant within the confines of what was approved by the HCC. That is how she feels about this and she will be supporting the Historic Board tonight.

Ms. Negrón stated she voted against this building from the beginning. She was disappointed that the HCC approved such a tall building and now we have a beautiful glass bridge, which is not historical. She added that they were also given an award. She pointed out that the garage now goes well with all of the student housing all over the south side. Ms. Negrón

informed she is very disappointed. Even though the HCC denied it there should have been a conversation and she still thinks there is an opportunity to have that conversation and that could still happen. They should have a space in there for tables and chairs like many other restaurants in downtown Bethlehem and the south side that have tables outside. Ms. Negrón noted that when it is snowing or raining, then people do not go out there. We do see people outside in downtown Bethlehem eating with heaters near them. She believes that they can still have a conversation and the HCC can still have that conversation possibly to just have tables and chairs and not that roof and not the extra glass. The building is ugly already and is already messed up and that is why she voted against it the first time and she is disappointed that it is there. Ms. Negrón stated it is almost like going back to 2 West Market Street with the zoning changes. She will be supporting the HCC because this should be denied and she wishes everyone will think about this, but it is the south side and nobody cares. The HCC has a role and an obligation and they should go back to it and bring another COA but with the right details that they could agree to and the restaurant can happen. But she does not want to see the building be uglier with glass so she will be in favor of the HCC with the denial.

Mr. Callahan reiterated and clarified that the glass that is coming out that is a sliding glass that can be opened during good weather.

Mr. Benner stated that is correct.

Mr. Callahan mentioned it was already going to be used as an outdoor patio.

Mr. Benner noted that is correct.

Mr. Callahan explained the view is spectacular and he thinks it will be a very successful restaurant. We all agree this is not the place we want to be at this moment. He asked Mr. Roeder if there was any discussion about any adaptations or changes they could make once he saw it, before it went to the HCC.

Mr. Roeder stated nothing other than asking the contractor to come in to provide an application permit process.

Mr. Callahan asked if he had any feeling on it.

Mr. Roeder informed he did not and not until it came to us and we had a good look at it.

Mr. Callahan pointed out there was no recommendation made to them.

Mr. Roeder stated no.

Mr. Callahan remarked he was in favor of the building and thanked Mr. Benner for investing in our City. That lot prior to Mr. Benner buying it was empty for 10 years, and we were getting maybe \$1,200 dollars a year in City taxes on an empty lot. It is a \$25 million dollar project and it originally was going to be seven stories.

Mr. Benner pointed out they had some residential use on top of it and it was eight or nine stories but when we looked at the uses at that location we felt that it would not be a good use

from an access point of view to have a residential component at that location, so we brought it down.

Mr. Callahan noted there was a lot of compromise on behalf of Mr. Benner and he congratulates Mr. Benner on this. To get back to his statement on the project of Mr. Rij, he does not know how we can make things so difficult in this City to get anything done. Mr. Callahan understands that there are people who have different opinions, but to have on that project alone we had four meetings. We had a four hour meeting on a 20 by 20 foot neighborhood garden. That was the first process to try to stop this project. Then Mr. Benner was kind enough to move all the plants from that garden and has bent over backwards to invest money in Bethlehem. This is unfortunate, and he is sure that Ms. Karner and her department have had discussions about it. He expressed the need to move forward.

Mr. Reynolds agrees with Dr. Van Wirt that there is blame to go around but he does not believe that this is a singular blame situation. The City of Bethlehem played a role in creating this situation both with the approval of the permit and also with the fact that we are lacking a solution from the HCC. It is hard to support what they are asking us to do. He is guessing part of the reason why we did not get a solution or did not get a next step is that they understand also that there is not much that can be done outside of shutting the project and stopping it and making them rip out and redesign outside of any potential legal ramifications. Mr. Reynolds thinks that this would have been another opportunity for the Administration to give us some more guidance about this particular situation. Instead, we are the ones that 11:30 pm at night trying to make this decision. He does not think that we have another decision to make other than to support it because we were not given any other alternatives.

President Waldron stated at this point a vote of AYE would be to support the HCC recommendation and a vote of NAY would be to not follow the recommendation and deny the application. If a majority of Council were to vote NAY to go against the HCC recommendation we would then need to make a new motion to approve the COA. That would be the process. If we were to vote AYE that would kill it and we would be done with the agenda item but if we were to vote NAY we would then need to make a new motion to approve the COA.

Voting AYE: Ms. Negrón, and Dr. Van Wirt, 2. Voting NAY: Mr. Callahan, Mr. Colón, Mr. Martell, Mr. Reynolds, and Mr. Waldron, 5. The Resolution failed.

K. *Certificate of Appropriateness – 306 South New Street (Grille 3501)*

Mr. Callahan and Mr. Colón, made the motion to approve the COA with the existing conditions.

President Waldron noted that a motion has been made and now there is discussion.

Mr. Callahan noted that a vote of AYE is in favor of this, just to make sure everyone understands that.

Mr. Colón and Mr. Callahan sponsored Resolution No. 2018-257 that granted a Certificate of Appropriateness to expand the dining area onto the deck at 306 South New Street (Grille 3501).

Ms. Negrón informed she will be voting against this Resolution. She believes that we have a Commission and we have rules and some people like to break them but we are not supposed to do that. Sometimes she wonders why we have historic areas anyway, what is the point. She remarked we have rules, and most people like her and everyone have to abide by every single one because we do not have big money in our pockets. This is so wrong and against everything we do. Ms. Negrón mentioned let's just not have historic commissions, because if we are not going to follow our rules, what is the point.

President Waldron pointed out there were seven recommendations for COA's from the HCC tonight that we approved the recommendation and one that we denied at the recommendation of the HCC. So it is rare that we do not follow the recommendations of HARB and the HCC but sometimes it does happen and he thinks this is an appropriate time that we respectfully say there is some different circumstances and it is up to us as City Council to make those difficult decisions. President Waldron is in support of supporting this new Resolution this evening.

Mr. Callahan wanted to make clear that we are following the rules and that the HCC is advisory. That is what our job is. He pointed out we follow the rules and 99.99% of the time, we do follow their advice and sometimes we do not because maybe we have a different opinion. He recognized Ms. Negrón was not in favor of this development project and the majority of Council was, and that is how democracy works. To state that we are not following the rules, that someone is trying to get by the rules or slide by the rules, is false. He wanted to leave it at that but he wanted to say a few things. He is tiring of the idea that the south side is this disgusting place to live. Mr. Callahan expressed he grew up here and spent time on the south side before Ms. Negrón moved here and it is difficult to hear that the south side is worse now than it was 25-30 years ago. He pointed to the investment in the south side, the arts, the Charter School, the restaurants, and asserted it is alive and is in a better condition. Mr. Callahan stated he had a property on Hayes Street and mentioned CACLV did at least 10-12 exterior improvements to houses on that street. Hayes Street was not in good condition, but Hayes Street is now being revitalized. Mr. Callahan stressed to keep saying that we are ruining the south side is beyond him.

Voting AYE: Mr. Callahan, Mr. Colón, Mr. Martell, Mr. Reynolds, and Mr. Waldron, 5.  
Voting NAY: Ms. Negrón, and Dr. Van Wirt, 2. The Resolution passed.

#### 11. NEW BUSINESS

##### A. *Rescheduling First Meeting in January – Wednesday, January 2, 2019 – 7:00 PM*

Mr. Colón and Mr. Martell moved to reschedule the first Meeting in January from Tuesday, January 1, 2019 at 7:00 PM, New Year's Day, to Wednesday, January 2, 2019 at 7:00 PM.

Voting AYE: Mr. Callahan, Mr. Colón, Mr. Martell, Ms. Negrón, Mr. Reynolds, Dr. Van Wirt and Mr. Waldron, 7. The Motion passed.

President Waldron stated the first City Council Meeting in January has been rescheduled to 7:00 PM, Wednesday, January 2, 2019.

President Waldron announced the Final Budget Meeting will take place on Monday, December 10, 2018 at 6:00 PM in Town Hall.

12. ADJOURNMENT

The meeting was adjourned at 11:45 p.m.

ATTEST:

City Clerk