

STATED MEETING - CITY COUNCIL –JUNE 22, 2004

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A meeting of the Lancaster City Council was held on Tuesday, June 22, 2004, in Council Chambers, Southern Market Center, 100 South Queen Street, Lancaster, Pa., at 7:30 p.m., with President Diamantoni presiding.

Present – Ms. Dickson, Mr. Duncan, Mr. Graupera, Mr. Mendoza,
Mr. Polite, Mr. Stoltzfus, President Diamantoni - 7

The minutes of June 8, 2004 were approved by Council unanimously.

REPORTS REQUESTED BY COUNCIL – Mr. Jack Howell, Lancaster Alliance, reported on the progress of the Committee to review the City's financial issues and make recommendations to the Mayor. He gave an interim report on the Committee's charge to look at the City's finances, both on the side of income and expenses. The Committee will give a report for the first phase to the Mayor within 30 days.

READING OF PETITIONS, COMMUNICATIONS & MEMORIALS – Request for Inter-municipal Restaurant Liquor License Transfer from West Donegal Township to Lancaster City.

Councilman Graupera stated that it came before his committee and the Committee unanimously recommends that the transfer take place. It is a win-win situation for the City, the Ball Park and for the Northwest Section of the City. Solicitor Mateyak stated pursuant to the sections of the PA Liquor Code, one of the more recent revisions, a license holder, or someone with an interest in a license, can apply to transfer that license from one municipality to another; in this case, from West Donegal Township to the City of Lancaster. Prior to these amendments, that was not possible. This is the first hearing that the City is holding under these provisions and we ask your patience as we move through it.

John Mongiovi, Attorney stated that DiSomma Enterprises, Inc., which is a newly formed corporation in the City, has entered into a lease agreement with the developer of 659-651 North Charlotte Street which is really is facing Harrisburg Avenue right across from where the ball park is going to be. In addition, DiSomma Enterprises has entered into an agreement to purchase a liquor license to serve liquor in this place. The corporation is planning on an upscale restaurant. The liquor license in question presently is owned by a corporation known as Mickey D's, Inc. The license is presently established in West Donegal Township, Lancaster County. The recent legislation permits a LCB license to be transferred from one municipality to another, with approval by the receiving municipality.

Mr. Paul Fulmer, Abacus Development, is redeveloping the site formerly known as the Champion Blower and Forge Building on the corner of North Charlotte Street and Harrisburg Avenue. Auntie Anne's is going to put a café in what was formerly Lancaster Auto Tags, and DiSomma, Inc. is leasing a portion of the building for the purposes of putting in a Southern Italian restaurant. Mr. DiSomma showed the plans for the restaurant.

After discussion, Solicitor Mateyak stated that whatever decision Council would render tonight if they so chose, he will prepare a draft document for consideration at the next meeting.

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Councilman Duncan made a motion to allow the transfer of the liquor license from West Donegal Township to Lancaster City. Councilwoman Dickson seconded. City Council approved the transfer by a unanimous roll call vote.

PUBLIC WORKS COMMITTEE – Councilman Mendoza reported that the Public Works Committee will meet on July 13th at 6:00 p.m. to hear Ms. Rose Smith, Chair of the Central Market Committee give us an update on the Master Plan that has been in the works for awhile.

ECONOMIC DEVELOPMENT & REVITALIZATION COMMITTEE – Councilman Graupera stated that aside from the liquor license transfer, the Committee also looked at an Ordinance to vacate two City streets in the site of the new stadium.

COMMUNITY DEVELOPMENT & PLANNING COMMITTEE – Councilwoman Dickson stated that there will be a Committee meeting at 6:30 p.m. on July 13th and at that meeting we will hear from the Shade Tree Commission. A Commission that has been existence in the City for many years, volunteers that have done a lot of work on advising regarding streetscapes. They have requested to come to us to give us input on design standards and streetscape standards that we talked about recently. She reminded Council and City staff that there is a meeting on Monday, the 28th from 5:00 to 6:30 p.m. with a light supper with the County Commissioners and the purpose of that meeting is to have the County share with us some of the things that they are doing within the City and ask for our input as to what else we would like from them and to talk about the Smart Growth and Lexicon Project.

PERSONNEL COMMITTEE – Councilman Polite stated that tonight we discussed and elected to present to full Council, Resolution No.41-2004, which is on the agenda tonight to establish a friendly relationship with Shanghai, China, in order to foster economic advancement and also to present this resolution to the City of Shanghai, with the intent to establish a sister to sister relationship.

Council considered the following applications (& HARB recommendations) for improvements to properties within the Historic District:

1. St. James Episcopal Church, to install a freestanding 8' directory sign within the church courtyard (after-the-fact) at 115 North Duke Street.
2. Diane Herr, to install a prefabricated shed, construction of chain-link and wood fencing, and replace gutters and downspouts at 650 West Vine Street.
3. Cordon J. Cooper, to install a wood fence and gate along the side of the property, and replace with wood entry door with a new metal security door at 655 West Vine Street.
4. First Presbyterian Church, to replace three existing landscaped areas along East Orange Street with patterned brick pavers at 140 East Orange Street.

Councilman Graupera made the motion to approve and Councilman Mendoza seconded. City Council approved the HARB decisions by a unanimous roll call vote.

Council Bill No. 11 – 2004, (the title) was read by the City Clerk as follows:

AN ORDINANCE ADDING CHAPTER 232, SALE OF PUBLIC PROPERTY, TO THE LANCASTER CITY CODE OF ORDINANCES, TO REGULATE THE SALE OF REAL PROPERTY OWNED BY THE CITY OF LANCASTER, AND PROVIDING THAT SUCH ORDINANCE SHALL TAKE EFFECT AS PROVIDED BY LAW.

Councilman Graupera made the motion to approve and Councilman Mendoza seconded.

Councilman Graupera stated that this was unanimously approved by Committee and it details three ways to sell property in the City, one by bid, one by auction and one by proposal which involves an economic development package.

Council President Diamantoni stated that he requested that this legislation be created after recognizing that there were no such statutes on the books regarding the sale of public property. When we received offers for the sale of the Public Safety Building we discovered that we had no ordinance or clear-cut method or procedure to govern what we were doing. The worst circumstances, such a lack of procedure could allow inappropriate sale of public property. To prevent that from happening and to be sure that any piece of property being considered for sale go through appropriate procedure this ordinance was created.

City Council approved a Council Bill No. 11-2004 by a unanimous roll call vote and shall hereinafter be known as Council Ordinance No. 10-2004.

Administration Bill No. 12-2004, (the title) was read by the City Clerk as follows:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF LANCASTER AMENDING THE CODE OF THE CITY OF LANCASTER, CHAPTER 67, ARTICLE I, POLICE BUREAU, TO AMEND THE PROCEDURES FOR EVALUATION AND PROMOTION TO COMPORT WITH THE IMPLEMENTATION OF COMMUNITY ORIENTED POLICING AND TO PROVIDE PROBATIONARY PROCEDURES FOR NEW RECRUITS WHICH COMPLY WITH THE REQUIREMENTS OF PENNSYLVANIA LAW.

Councilman Duncan made the motion to approve and Councilman Mendoza seconded.

Councilman Duncan stated that it makes it fair and equitable in the way promotions are perceived from this day forward. And it also puts in writing, the duration of time that a new

recruit is on probation.

President Diamantoni stated that he has a concern that he voiced when it came to Mr. Duncan's Committee. Under Section 67 – 6 that outlines the procedures for promotion and what factors are taken into consideration in making that decision. There are some changes made within those procedures in terms of what is given weight. These procedures currently include written examination, staff evaluation, performance evaluation and seniority. Staff evaluation allows a group appointed by the Chief both from inside and outside the department regarding promotion. That weight has been increased to 55% and the performance evaluation which is really the evaluation that police officers have received through the years has been eliminated as a factor utilized in making the decision for promotion. Presently it counts for 20%, it is being eliminated completely. He thinks that performance evaluation should continue to be utilized as a method of evaluation regarding promotion. Councilman Mendoza also stated that he thinks that evaluations should be done fair and square to a police officer and he has a concern about eliminating performance evaluation. He also stated that the understanding that he has is that before the policeman reaches the level of staff evaluation, that officer must have an acceptable performance evaluation.

Chief Heim stated that performance evaluations are not used very often across the nation in promotion examinations. Because you do a great job as a patrol officer doesn't mean that you will be a good supervisor. So you are talking about a totally different job. That is one reason that we don't use them. The other reason is that when you get to a particularly large organization where you have a lot of the supervisors evaluating different officers, there is no way you can take a great deal of subjectivity out of a performance evaluation. It is difficult to equate everybody's job into an overall performance evaluation and make it mean anything.

Councilman Mendoza made a motion to bring this back to committee and there was no second.

Councilman Polite suggested a sunset clause. Solicitor Mateyak stated that Council can always come back and revisit the ordinance, so there is no need to have a sunset clause.

Chief Heim stated that the Police Association is in agreement with this change. They also didn't like the performance evaluation being part of the process. We discussed it at staff meetings and there were representatives of the Police Association and they all know about the change and there is no disagreement. President Diamantoni stated that he has talked to individuals in the Police Association who don't share that view.

Councilwoman Dickson stated that she would like to speak in favor of this ordinance, because we did discuss this pretty thoroughly in Committee and the Chief did explain the background to this. We talked about the difficulty that we have in any field in trying to come up with specific criteria to evaluate performance and to make promotions. She thinks we should be supporting and giving them some flexibility within that department to try to implement a procedure that they think is fair and going to work.

City Council approved Administration Bill No. 12-2004 by a 5-2 vote. Aye – Dickson, Duncan, Graupera, Polite, Stoltzfus – 5. No – Mendoza, Diamantoni – 2. It shall hereinafter be

known as Administration Ordinance No. 11-2004.

Administration Bill No. 13-2004, (the title) was read by the City Clerk as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, LANCASTER COUNTY, PENNSYLVANIA ADOPTING THE UNIFORM CONSTRUCTION CODE, AS DEFINED AND REGULATED UNDER THE PENNSYLVANIA CONSTRUCTION CODE ACT (35 P.S. § 7210.101 et seq.), AS THE BUILDING AND CONSTRUCTION CODE OF THE CITY.

Councilman Mendoza made the motion to approve and Councilman Duncan seconded.

Councilman Duncan stated that the Commonwealth of Pennsylvania has come out with a standardize building code. The City is required to adopt this ordinance if the City desires to enforce the Uniform Construction Code.

City Council approved Administration Bill No. 13-2004 by a unanimous roll call vote and will hereinafter be known as Administration Ordinance No. 12-2004.

Administration Bill No. 14-2004, (the title) was read by the City Clerk as follows:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF LANCASTER AMENDING THE CODE OF THE CITY OF LANCASTER, CHAPTER 285, VEHICLES AND TRAFFIC, TO ADD A PROVISION TO RESTRICT THE PARKING OF RECREATIONAL EQUIPMENT UPON CITY STREETS; TO REQUIRE PROOF OF RESIDENCY PRIOR TO THE ISSUANCE OF A PARKING PERMIT TO LIMIT THE NUMBER OF RESIDENTIAL PERMITS AVAILABLE TO A PARTICULAR STREET ADDRESS; AND TO PROVIDE THAT THIS ORDINANCE SHALL TAKE EFFECT AS PROVIDED BY LAW

Councilman Polite made the motion to approve and Councilman Mendoza seconded.

Councilman Duncan stated that this deals with such things as boats, campers. Skidoos, snowmobiles, those kinds of vehicles that may be on a trailer parked on City streets. It also makes part of the ordinance to receive a parking permit you must prove your residence in that neighborhood.

Solicitor Mateyak outlined amendments that were discussed at the Committee meeting and Councilwoman Dickson made the motion to approve, as amended, and Councilman Duncan seconded. City Council approved the amendments to Administration Bill No. 14 – 2004 by a unanimous roll call vote. City Council approved Administration Bill No. 14-2004 (as amended) by a unanimous roll call vote and it will hereinafter be known as Administration Ordinance No. 13-2004.

Administration Bill No. 15-2004, (the title) was read by the City Clerk as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER REPEALING CHAPTER 129, ARTICLE IV - PROSTITUTION (ORDINANCE NO. 5-2001) RELATING TO OFFENSE OF PROSTITUTION LOITERING IN COMPLIANCE WITH THE MARCH 8, 2004 ORDER OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA; REPEALING CHAPTER 190, ARTICLE I, DRUG RELATED LOITERING (ORDINANCE NO. 4-2001) AND TO PROVIDE THAT THIS ORDINANCE SHALL TAKE EFFECT AS PROVIDED BY LAW.

Solicitor Mateyak stated that the repeal of this ordinance is required by the consent order that was entered by the judge in the Easter District of Pennsylvania.

Administration Bill No. 16-2004, (the title) was read by the City Clerk as follows:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF LANCASTER TO VACATE AND REMOVE FROM THE OFFICIAL CITY (STREET) PLAN AN UNOPENED PORTION OF NORTH WATER STREET BETWEEN WEST NEW AND CLAY STREETS AND AN UNOPENED ALLEY BETWEEN UNOPENED NORTH WATER AND NORTH PRINCE STREETS, SOUTH OF UNOPENED CLAY STREET.

Paula Jackson, City Planner, explained that this is essentially a housekeeping matter. With the review of the land development plan for the stadium, it became clear that there were unopened streets that remain on the official City map. The City has no intention constructing the streets and they are in the way of the stadium. We need to take a formal action to amend the official City map.

Council Resolution No. 41-2004 was read by the City Clerk as follows:

A RESOLUTION OF THE COUNCIL OF THE CITY OF LANCASTER STATING ITS DESIRE TO ESTABLISH A FRIENDLY RELATIONSHIP WITH THE HONGKOU DISTRICT OF THE CITY OF SHANGHAI, CHINA, ON BEHALF OF THE CITIZENS OF THE CITY OF LANCASTER AS WE EXTEND OUR BEST WISHES AND FRIENDSHIP TO THE CITIZENS AND COMMUNITY LEADERS OF THE HONGKOU DISTRICT OF SHANGHAI.

WHEREAS, the Council of the City of Lancaster wishes to establish a friendly relationship with the citizens and community leaders of the Hongkou district of Shanghai, China; and

WHEREAS, President Diamantoni of the City Council and Senator Gibson E. Armstrong of the 13th District of the Commonwealth of Pennsylvania will be visiting the Hongkou district of the City of Shanghai in July, 2004; and

WHEREAS, the Council of the City of Lancaster desires that President Diamantoni and Senator Armstrong be our ambassadors of good will to the people of the City of Shanghai, especially the Hongkou District, and extend our best wishes and friendship.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Lancaster, on behalf of the citizens of the City of Lancaster, wishes to establish a friendly relationship as we extend our best wishes and friendship to the citizens and community leaders of the Hongkou District of Shanghai.

Councilman Polite made the motion to approve and Councilman Duncan seconded.

President Diamantoni stated that he has the honor of traveling with Senator Armstrong, Representative Armstrong and several other business leaders to Shanghai, China, for a two-week period in July. The first week will be spent in Shanghai.

Millersville University has an extremely well respected program in which about 15 middle to mid-high echelon government leaders receive an education. They come here not only to sharpen their English skills but to learn business and other things that an American university offers that perhaps Chinese universities do not offer.

The City of Shanghai is very excited about this relationship and wishes to continue to develop other collaborative relationships between Shanghai, which is really the economic center of the East and Lancaster.

City Council approved Council Resolution No. 41-2004 by a unanimous roll call vote.

PUBLIC COMMENT – Zena Perelli, North Prince Street, questioned why the sidewalk curbcuts have not been installed and what has held it up. Charlotte Katzenmoyer, Director of Public Works, assured her that the work was put out for bid and it will take about two months to get a contractor to take on the many sidewalks to be reconstructed.

Christine Nesmith and Jimmy Nesmith, Brandon Court, stated Friday, June 18, 2004, came to Council and reported that the Police shot her dog in their yard. She produced photographs of her dog after it was shot by the police officer. President Diamantoni asked Chief Heim to look into it for Council.

COUNCIL COMMENTS – Councilman Polite cited the memo from Chief Heim and stated that it is evident that noise violations are vigorously being pursued. He has noticed that the mufflers and motorcycles seem to be reduced in his neighborhood.

He further asked about the memo from the Mayor about his veto of Resolution No. 37-2004. President Diamantoni stated that it will go back to Committee and perhaps Council can override the Mayor's veto.

Councilman Graupera stated that he would re-visit the issue if there is a will on Council to do so. He finds it ironic that Mr. Howell was here tonight to discuss the search for additional funding streams for the City and the Mayor has decided not to sell a property that would go back on the tax rolls. President Diamantoni stated that the Council approved the Resolution by a 4-3 vote and if the Committee feels that it can get 5 votes to override the Mayor's veto it can come back for re-consideration.

President Diamantoni adjourned the meeting at 10:10 p.m.

Stephen G. Diamantoni, President

Attest:

City Clerk