

STATED MEETING - CITY COUNCIL –JULY 25, 2000

A meeting of the Lancaster City Council was held on Tuesday, July 25, 2000, in Council Chambers, Southern Market Center, 100 South Queen Street, Lancaster, Pa., at 7:30 p.m., with President Polite presiding.

Reverend Lewis Dixon gave the invocation.

Boy Scout Troop No. 21 and Brad Moyer from Troop No. 30 led the assembly in the Pledge of Allegiance.

Present - Mr. Graupera, Mr. Lehman, Mr. Mendoza, President Polite, Stoltzfus - 5

Absent - Mr. Diamantoni, Ms. Dickson - 2

Council approved the minutes of June 27, 2000 Council Meeting by a unanimous roll call vote.

REPORT OF THE MAYOR – Mayor Smithgall stated that on July 16th the Ice Cream Festival was held in Lancaster Square with a record attendance. On July 17th the Boys Club, Girls Club dedicated the pool at the former Neighborhood Center and it is now open. That evening there was a neighborhood meeting on Mary Street about Brendee’s Bar which is under new ownership; the owner met with the neighbors. On the 18th the Traffic Commission held their meeting. On the 25th a new HUD director from Philadelphia came to the City and we introduced the first house that was sold in HUD’s Teacher Next Door program. The house is on East New Street, bought for \$17,500 or 50% of its value. The new owner is a teacher at Edward Hand Middle School.

A few weeks ago we passed a resolution to accept \$1 HUD houses. We have already gotten one. We were the first one in the middle Atlantic area to receive a house for \$1. He reminded everyone that next Tuesday evening is National Crime Watch Night-out and urged all residents to participate.

PUBLIC COMMENT – Roberta Spiese, 24 North Pine Street, stated that she wishes the Mayor would veto the Trash Hauling Ordinance. She is retired and on a fixed income, she pays a modest fee, and has very little trash. She stated that the law-abiding citizens are being penalized for the wrongdoers.

PUBLIC SAFETY COMMITTEE – Councilman Mendoza stated that the Committee met on July 13th. A presentation was given by Agnew & Corrigan, an advertising company, relating to the Cease Fire implementation. Representatives were there for Sen. Specter, Congressman Pitts, Sen. Santorum, Rep. Katie True, Mr. Ted Darcus, Rep. Mike Sturla, and Rep. John Barley. District Attorney Totaro and Chief Heim, were in attendance. Everyone was supportive of the program and is looking for

funding for this program.

Councilman Mendoza further stated that the Traffic Commission met on July 18th and the City Clerk read the minutes for that meeting.

PUBLIC WORKS COMMITTEE – Chairman Stoltzfus stated the Committee met tonight before the council meeting to go over some exciting changes to the anti-litter law. It asked that whatever the snow removal is on your sidewalks and alleys that you would also abide by that with litter. The fines have been increased.

Solicitor Mateyak stated that the ordinance will increase fines, it will bring side yards, rear yards and front yards into the scope of the litter ordinance, in addition to sidewalks and entranceways. It will give the Housing Officials and Health Department Officials broader powers to make sure these properties are kept clean.

It also provides ample warning to the property owner before being cited stated Councilman Stoltzfus. He further stated that we will be meeting again to discuss this ordinance on August 8, 2000 at 6:30 before the Council Meeting and hopefully it will have its first reading that evening. There is also a resolution being presented to Council stating that we will resolve to improve the quality of life and that we are behind trying to take care and be serious about the litter control laws in the City.

Council President stated that now with the Neighborhood Policing it would give those officers another tool to help the neighbors to clean up their neighborhoods.

ECONOMIC DEVELOPMENT & REVITALIZATION COMMITTEE – Chairman Graupera stated that the meeting that was supposed to be held last evening has been rescheduled for August 3, at 7:00 p.m. in Conference Room #4.

FINANCE COMMITTEE – Councilman Lehman stated that the Finance Committee met on July 20th for the quarterly finance meeting. He made a motion to approve some worker's compensation transfers. Councilman Graupera seconded and the transfers were approved by a unanimous roll call vote.

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

1. Consider the application of Nick Kousisis to replace the existing door with a modern, single-lite (full glass) door of a different size and adjust the existing doorframe to accommodate the smaller modern door (after the fact) at 165 East King Street. This application was denied by the HARB.

2. Consider the application of Daryl and Jane Peifer to replace modern garage roof with a side-facing gable roof, 8x12 pitch, covered with asphalt shingles. The gable ends of the new roof will be covered with vertical 1x8 "V groove" cedar siding and replace existing

overhead garage door with a new door in-like-kind at 125 North Shippen Street.

3. Consider the application of Duff May to replace an existing fence with a custom designed clear cedar fence constructed of 1x6 vertical cedar boards with a horizontal cedar cap, the fence to be set on a low concrete block wall. The concrete block wall will be fitted with sleeves to accept the cedar fence posts and will have a stucco finish to match the existing stucco on the residence. The finished fence will have a height of six feet at 230 East Marion Street.

Council noted that number one application was denied by the HARB. Mr. Dan Diller, of the Historical Architectural Review Board stated that HARB recommended denial of Mr. Nick Kousisis's after-the-fact change to a property at 165 E. King Street. First of all because it was after-the-fact. He did not make the proper application to get the work done; he did not get a building permit to do it until after the work was done. The main reason we turned it down, it did not meet the Secretary of the Interior's standards. He is replacing an 8-foot high door with a six foot six inch high door. The front of the property has two doors, one at each end. They were both eight-foot doors. One still remains as an eight-foot door, he replaced the other one, which was the main entry to the property with a shorter door and filled in the transom above that. It really looks unbalanced; it is not in keeping with the neighborhood, so we recommended denying that.

The door that he removed was still on the property, but it could be repaired. He wanted to replace it because it was getting old and starting to look in bad condition. Instead of repairing it, he wanted to replace it with a modern steel door. The secretary's standards call for repairing rather than replacing with modern, non-conforming or products that look like the original, if at all possible. His contractor stated that he could get a door of the same size, if the old door could not be repaired, but he thought it could be repaired.

President Polite stated that he was up to look at it this morning and one side is the old door and the right side is the new door and there is a big difference.

Councilman Stoltzfus asked if anyone asked him why he did not have a permit?

Mr. Diller stated that the contractor stated that he knew that he needed a permit, but the owner told him to go ahead and do it because he had all the permit work taken care of.

Councilman Lehman made the motion to approve the HARB recommendations as a group and Councilman Mendoza seconded. Council approved the recommendations of the HARB by a unanimous roll call vote.

Council considered the applications & Historic Preservation Specialist recommendation for construction visible from a public street within the heritage Conservation District:

1. Timothy J. Erdley and Angela L. Lightfoot, to demolish an existing, non-original,

early-mid twentieth century porch at the front of the rowhouse located at 503 West Walnut Street and replace with landscaping at 503 West Walnut Street.

2. Richard C. Seavey, to demolish the existing rowhouse at 523 East Fulton Street and replace it with a parking lot separated from East Fulton Street by a brick masonry wall topped with decorative iron fencing and containing a pedestrian gate at 523 East Fulton Street.

Councilman Mendoza made the motion to approve the recommendations of the Historic Preservation Specialist and Councilman Graupera seconded.

Mr. Stoltzfus questioned why approval was granted to demolish the porch. Lori Salomon of that particular neighborhood. She said that, as a resident she knows the people who are demolishing this porch and it would look much better without that porch. The owners are improving the property.

Council approved the decisions of the Historic Preservation Specialist by a unanimous roll call vote.

Administration Bill No. 5-2000, (the title) was read by the City Clerk as follows:

AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN REAL ESTATE LOCATED IN THE REAR OF OLD HARRISBURG PIKE (SR 4020) IN THE TOWNSHIP OF MANHEIM, COUNTY OF LANCASTER, PENNSYLVANIA AND ADJACENT TO LONG'S PARK FROM R.R. DONNELLEY & SONS COMPANY AND AUTHORIZING ALL ACTIONS NECESSARY AND APPROPRIATE TO ACQUIRE THE REAL ESTATE.

Councilman Mendoza made the motion to approve and Councilman Graupera seconded. City Council approved Administration Bill No. 5-2000 by a unanimous roll call vote and it shall hereinafter be known as Administration Ordinance No. 4-2000.

Administration Bill No. 6-2000, (the title) was read by the City Clerk as follows:

AN ORDINANCE OF THE CITY OF LANCASTER AUTHORIZING THE TAKING OF CERTAIN REAL ESTATE LOCATED IN THE CITY OF LANCASTER, LANCASTER COUNTY, PENNSYLVANIA KNOWN AS 27 CHESTER STREET, AND AUTHORIZING ALL OTHER NECESSARY OR APPROPRIATE ACTION PURSUANT TO THE EMINENT DOMAIN CODE OR FOR THE ACQUISITION OF SUCH REAL ESTATE RIGHTS AND INTERESTS IN LIEU OF CONDEMNATION PROCEEDINGS.

This is the first reading and it will be discussed before the next Council meeting.

Council President Polite stated that under New Business he would like to bring to the

floor the following item. Last meeting we voted to enact a new municipal waste ordinance amended by a provision allowing a limited choice of haulers. Concerns have been raised that the public did not hear the haulers choice amendment read at length at the Council Meeting. The details of the haulers choice amendment were reviewed at great length and Council and the public in attendance were well aware of its terms and meaning. However, because all work and effort necessary to implement the Municipal Waste Ordinance over the next twelve months, even those who do not support all the provisions of the ordinance would agree that the City should take any reasonable steps to avoid legal challenge. Even winning lawsuits is expensive. The already published legal advertising listed tonight as July 25 as one of the dates when the ordinance was to be considered and adopted. For that reason we can readopt the identical amended ordinance tonight and still be within our advertising period. He asked for the following three things: 1) that the City Clerk again read the title to the Municipal Waste Ordinance. 2.) City Clerk read the Hauler's Choice amendment, word for word, as finally adopted by Council. 3.) a member of Council make a motion to readopt tonight the Municipal Waste Ordinance exactly as made available to the public in the City Clerk's Office with the Haulers Choice amendment adopted two weeks ago and read by the City Clerk.

Administration Bill No. 3-2000, (the title) was read by the City Clerk as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER AMENDING CHAPTER 258, SOLID WASTE, OF THE CODIFIED ORDINANCES OF THE CITY OF LANCASTER AND PROVIDING FOR: (A) THE RESPONSIBILITIES AND POWERS OF THE CITY CONCERNING SOLID WASTE COLLECTION, TRANSPORT AND DISPOSAL, (B) THE RESPONSIBILITIES OF CITY PROPERTY OWNERS AND OCCUPANTS CONCERNING SOLID WASTE, (C) THE COLLECTION, TRANSPORT AND DISPOSAL OF SOLID WASTE BY LICENSED HAULERS, (D) BILLING, PAYMENT, AND ENFORCEMENT OF SANITATION FEES, (E) DESIGNATION OF THE LANCASTER BOARD OF SANITATION TO HANDLE AND REGULATE MUNICIPAL WASTE AND RECYCLABLE MATERIALS AND AS THE RESPONSIBLE AGENCY, (F) THE AMENDMENT OF THE FUNCTIONS AND POWERS OF THE RESPONSIBLE AGENCY, (G) THE POWERS AND DUTIES OF THE LANCASTER BOARD OF SANITATION, INCLUDING BUT NOT LIMITED TO, THE POWER AND DUTY TO ISSUE SANITATION RULES AND REGULATIONS, TO REGULATE SOLID WASTE, TO OPERATE THE SANITATION SYSTEM, TO IMPLEMENT AND ENFORCE THE SOLID WASTE CHAPTER, AND TO SET AND COLLECT SANITATION FEES, (H) RETENTION BY THE CITY OF THE POWER AND DUTY CONCERNING HAULER LICENSING, (I) THE AREAS TO BE GOVERNED BY THE SANITATION RULES AND REGULATIONS, (J) CREATION OF THE LANCASTER BOARD OF SANITATION AND ITS ARTICLES OF INCORPORATION AS A MUNICIPAL AUTHORITY UNDER THE MUNICIPALITY AUTHORITIES ACT OF 1945, ACT OF MAY 2, 1945, P.L. 382, AS AMENDED, (K) ADDITIONAL DEFINITIONS TO CHAPTER 258, (L) THE

TERMS OF THE SANITATION SYSTEM AGREEMENT BETWEEN THE CITY OF LANCASTER AND THE BOARD OF SANITATION CONCERNING THE SANITATION SYSTEM AND, (M) THE EFFECTIVE DATE, VIOLATIONS, PENALTIES, ENFORCEMENT, REMEDIES, SEVERABILITY AND SEVERANCE PROVISIONS OF THIS ORDINANCE; AND TO PROVIDE FOR THE REPEAL OF INCONSISTENT ORDINANCES; AND TO PROVIDE THAT THIS ORDINANCE SHALL TAKE EFFECT AS PROVIDED BY LAW.

The City Clerk read the amendment offered by Councilman Lehman as follows:

Section 12 of the Proposed Ordinance shall be amended to add the following definitions:

BOARD CONTRACT – A contract in substantially the form of the standard contract, as changed from time to time, for collection, transport, storage and/or disposal of Regulated Municipal Waste or designated Recyclable Materials between a Licensed Hauler and the Board of Sanitation.

CELL – An individual geographic Municipal Waste or designated Recyclable materials collection zone or region within the City defined by the Sanitation Rules and Regulations.

IMPLEMENTATION DATE – the first day the first Board Contract becomes effective pursuant to the initial Sanitation Rules and Regulations.

OWNER’S HAULER – A Licensed Hauler who has been selected by an Owner to serve such Owner’s property pursuant to §258-89 D.1.b. of the Solid Waste Chapter in place of the Licensed Hauler selected by the Board of Sanitation to serve a particular Cell.

§258-89 D.1.b. of **Section 7** of the Proposed Ordinance shall be amended to add the following clause at the end:

provided however, in the event the Sanitation system so divides the City into Cells to be served by a Licensed Hauler selected by the Board of Sanitation, before the Implementation Date the Board of Sanitation shall allow Owners within each Cell a one time option to select an Owner’s Hauler, subject to conditions imposed by the Board of Sanitation to maintain the integrity and functioning of the Sanitation System, including, but not limited to the following:

i. the Owner’s hauler must agree in writing to enter into a Board Contract with the same price, terms and conditions contained in the Board Contract with the Licensed hauler designated by the Board of Sanitation to serve the applicable Cell.

ii. the Owner shall, not more than sixty, but not less than thirty, days prior to the Implementation Date, appear in person at the offices of the Board of Sanitation to:

(I) provide identification and verification of property ownership,

(II) complete and sign a Hauler selection application in the form determined by the Board of Sanitation, and

(III) provide a Board Contract duly executed by Owner's Hauler, which Board Contract shall provide that the Owner's Hauler may be required by the Board of Sanitation to collect Municipal Waste and designated Recyclable Materials on a different day from the Hauler selected by the Board of Sanitation to serve such Cell: and

iii the Board of Sanitation shall execute the Board Contract with the Owner's Hauler, pay the Owner's Hauler, and charge the Owner Sanitation Fees just as if the Owner's property was being served by the Hauler selected by the Board of Sanitation for such Cell; and

iv. so long as Owner's Hauler, upon expiration of each Board Contract, executes a replacement Board Contract, then the Board of Sanitation shall continue to execute Board Contracts with Owner's Hauler until the earlier of the date:

(I) owner notifies the Board of Sanitation in writing that the Owner no longer wishes to be served by the Owner's Hauler,

(II) Owner fails to timely pay any Sanitation Fees,

(III) Owner no longer owns the property served by Owner's Hauler,

(IV) the Owner's Hauler ceases to serve Owner's property due to death, transfer of business, of other cause,

(V) the Owner's Hauler breaches or defaults under the Board Contract, or

(VI) the Board of Sanitation no longer executes any Board Contracts for the applicable Cell.

If any of items (I) through (VI) above occur, or if the Board Contract of Owner's Hauler lapses or terminates for any reason without execution of a replacement Board Contract, neither the Owner nor the Owner's Hauler shall have any right to require that the Board Contract with the Owner's Hauler be reinstated, renewed or extended.

Section 3.1 of the Sanitation System Agreement between the City of Lancaster and the Lancaster Board of Sanitation to which **Section 5** of the Proposed Ordinance refers shall be amended by the addition of a new section (f) reading as follows:

(f) to the extent that the Board of Sanitation enters into Board Contracts, such Board Contracts shall contain performance standards and incentives to exceed such

standards. The Board of Sanitation may, in its discretion, consider measured performance in future award of Board Contracts.

The following is a transcript of the deliberations of this amendment and the decision of the City Council to re-adopt Administration Ordinance No. 3-2000 (as amended).

After the amendment was read by the City Clerk:

President Polite asked if he has a motion to readopt the municipal waste ordinance, the title the clerk has just read, with the hauler choice amendment, also just read?
Is there a motion?

Mendoza: Could I ask a question, Mr. President, first. We are not voting for the amended ordinance, we are voting for the additional step that we are taking tonight to read again to make it legal to avoid any challenges? That's what I understand.

Polite: Yes but you are also approving the amended ordinance.

Mendoza: I don't believe that, I thought we already approved the amended ordinance. What we are doing is approving or voting for the additional step we are taking; it requires the reading of the full amendment.

Polite: The point is, we approved the original ordinance and we also approved the amendment. The only problem is, it was not read in full. That is the only problem.

Mendoza: Yes, so all we are doing is we are voting for the additional step that we are taking to read the amendment in full. Because it was not done, as was mentioned before, to avoid any legal action against the City, because we didn't do this part. All we are doing is approving the step, not the approved amendment.

Graupera: I understood that we are actually voting again on the amended ordinance.

Mendoza: That's not what I understand, that's for the attorney. Could you explain that? Because I asked you that before Council.

Solicitor Mateyak: Sure. The amendment has been put up for re-adoption because of a perceived procedural defect. The re-adoption would effectively close the door on any challenge to the procedural aspects of the ordinance as adopted last meeting. If the ordinance is not re-adopted there is a potential for challenge to the ordinance, based on the procedural argument that could be made that the ordinance was not read at length. The ordinance is adopted and this is to fix the procedural problem.

Mendoza: It is related with fixing the procedural problem, not necessarily amend the ordinance. Correct? We already voted for that in the previous meeting.

Solicitor: Right, it would require a vote for the ordinance.

Mendoza: Right, thank you.

Stoltzfus: Mr. President, don't you have to make a motion to put it on the agenda to begin with, if we are going to go through this exercise?

President: I can do that.

Stoltzfus: Someone has to do that.

President: Do you want to do that?

Stoltzfus: I do not want to do that, no. I am saying that someone has to make the motion to put it on the agenda, if we want to go through this inane exercise.

Mendoza: I would like to make a motion to add it to the agenda.

President: Is there a second to that motion?

Graupera: Second

Pres: It has been moved and properly seconded that this re-adopted municipal waste ordinance, plus the amendment be placed on the agenda.

Lehman: Mr. President, I have a question for the solicitor, kind of technical in nature. This is the first time I can remember where the quorum of Council is less than; I think the lowest we ever had was six. So the question is, is the majority four or three?

Solicitor: A majority is the majority of the members present, as long as there is a quorum.

Lehman: So it is not a constitutional majority, in other words, it is not a majority of the body of the committee of the whole.

Solicitor: Correct. It is the majority of the members present, so long as there is a quorum.

Lehman: Just wanted to make sure.

Stoltzfus: Mr. President, it seems kind of unfair to not have two of us here also to not have the opportunity to vote on this tonight.

Mendoza: The motion was made and seconded, Mr. President. So that is the status.

Pres: Any further discussion?

Lehman: Mr. President, I have done a little research and thinking on this issue, so I am going to help the Mayor out. As I understand the issue, the issue is pretty technical in that it revolves around the definition of the phrase, "at length". No one in the City Solicitor's office was certain whether "at length" meant a word for word reading, or discussion and distribution of copies, which I think anybody that was here last week, can attest to the fact that there was plenty of discussion. While this doesn't speak to the motion to put the item on the agenda, or not put the item on the agenda, of the remedy that is being recommended is re-adopt. Without getting into a semantic discussion of re-adopt, I am going to ask the solicitor a couple of questions, if I may?

Does re-adopt mean that the ordinance is being enacted for the first time?

Solicitor: No.

Lehman: Does re-adopt mean that the 10-day veto window restarts?

Solicitor: I would have to research that, but I believe it would, since it is an act by Council.

Lehman: It would start again?

Solicitor: Correct. But again I would have to research that to verify.

Lehman: And again, re-adopt would still be majority of the quorum, not committee of the whole?

President: Any further discussion from Council? Any discussion from the general audience? Come forward and give your name please.

Vernon Harris: My name is Vernon Harris, I am the president of Duster Corporation. I live in Manheim Township and I am a trash hauler in the City. I want a couple of items clarified. Has the amendment to the ordinance been adopted and so the ordinance that is now being considered for voting on is the ordinance as amended? Or is the amendment

Pres: I did not quite understand what you said, sir. Speak into the mike please.

Harris: The amendment was not read last time.

Pres: But it is adopted with those changes. The only technicality was that it was not read in full word for word.

Harris: Okay, so the amendment was made to the ordinance and the ordinance was adopted? So the ordinance being considered tonight is the ordinance as amended?

Pres: Right.

Harris: So you don't need to re-discuss the amendment?

Pres: No.

Harris: So the amendment is read at length tonight just to clarify the technical point?

Pres: Right.

Harris: I did have a couple of questions about the other procedures. One, I understand that in the inter-municipal agreement that the City signed with the County when the plan first started, the City was obligated to get written permission from the County prior to amending what they call the Waste Flow Ordinance. And if I read your ordinance correctly it appears that the Waste Flow Ordinance is being amended and I was wondering if permission has been received from the County to do so?

Pres: Do you understand the questions? I couldn't quite understand.

Mayor: (could not detect his voice)

Harris: The Waste Flow Ordinance.

Pres: I am not familiar with that.

Mayor: (More statements from the Mayor but not into the mike, could not hear)

Pres: I think each individual municipality has their own, as long as they stay within the parameters of the State Law and the County Law, they can have their own system.

Harris: I have the Inter-Municipal Agreement with me if I could read a couple of paragraphs from it?

Pres: Go ahead.

Harris: This is the Inter-Municipal Agreement concerning disposal of solid waste and other activities relating to management of municipal waste.

Mayor: When was that signed?

Harris: That was signed by the City by Arthur Morris on January 27, 1987, and I believe it runs for a term of 50 years.

Pres: Go ahead.

Harris: The pertinent paragraph is in Article I Definitions, General Purpose, Section 1.01. Paragraph C reads:

Let me read the first.

Without limitation as more fully reflected herein, the general purposes of this agreement shall be:

C. to delegate from the participating municipalities to the County all powers, responsibilities and duties concerning solid waste collection, transportation, storage processing, transferring, recovery and disposal necessary and convenient to carry out the plan and the purposes and requirements of the agreement; and

D. to authorize the County to delegate such powers, responsibilities or duties to LCSWMA or to cooperate with LCSWMA in the exercise of such powers and responsibilities through the LCSWMA Agreement.

Pres: So what does that mean to you, sir? It is hard to understand what you are saying unless we are reading it ourselves, you know.

Harris: Right.

Pres: What does it mean to you?

Harris: Let me read just one more section. Paragraph 2.01 Municipal Covenant to Enact Ordinance. Each participating Municipality, having determined that it is in its interest to do so, covenants that it shall enact a Waste Flow Ordinance, in substantially the form provided in Exhibit I hereto, and shall not amend the ordinance during the term of this Agreement without first receiving the County's written consent.

My understanding is that the Inter-municipal Agreements between the participating municipalities and the County were then assigned to the Authority, and the Authority relies on those agreements to ensure the trash from the County goes to the facility. And the City would have to get written permission from the County in order to amend.

Pres: Well we're not changing our procedures as far as getting trash to the proper place. I think that is what they are talking about, getting the daily trash to the proper place. All we are doing is changing the system, that's all.

Harris: In the Ordinance 3-2000, Section D. Definitions. Section 12. It reads: The Code of the City of Lancaster, Chapter 258 Solid Waste Sections 258-35, 258- 56, and 258-70 each be and hereby are amended. And add the following definitions. So it appears to me that in the ordinance that you are proposing that Waste Flow Ordinance is being amended and I was wondering if the City had the County's permission to do so.

Pres: You haven't told me anything that we didn't know before and we're not changing, like I said before, we're not changing the transfer station. We must take it through the transfer station, that is part of the route to the landfill.

Harris: I understand that the intent is the same. That is not my question. My question is, did the City receive permission from the County to amend the Waste Flow Ordinance.

Pres: I don't think we need to.

Harris: Regardless of what the Inter-municipal agreement says?

Pres: Because we are not changing anything. We'll make sure that trash is placed in the right place, the landfill or the transfer station.

Harris: I understand that. But the ordinance reads that those sections be and hereby are amended.

Pres: But we're only changing the way it is being picked up and who picks it up.

Harris: I guess that would mean that the City has not received written permission from the County and nor does it need it?

President: Do you have an opinion on that, Sir? (addressing the solicitor)

Solicitor: I am not familiar with the agreement and I would have to read it fully to give an opinion.

President: That is kind of hard to go back and forth, because we don't have it in front of us. But thank you for your comments.

Harris: Can I ask one more question?

Pres: Yes.

Harris: My understanding of the Municipals Authorities Act of 1945, is that there are bidding requirements for an Authority and that the Authority is responsible to award contracts to the lowest responsible bidder. I believe Counsel, the Solicitor has indicated that he has devised a plan or a scheme whereby he can sidestep awarding the contract to the lowest responsible bidder. And I was wondering if he's devised such a scheme, prior to implementing this ordinance, if you wouldn't request the Solicitor to request a written opinion from the Attorney General regarding whether that scheme is legal or not. And if he can't request it, if the City can't request an opinion from the Attorney General, I believe the DEP can. And the City Solicitor could request the DEP to request a written opinion of the Attorney General, as to whether or not it is legal to divide the City up into

sections and award the City in sections based on existing market share to current haulers. That's all I have, thank you.

Pres: Thank you.

Dan Diller, 421 West Walnut Street: This is my first experience with this ordinance. It seems like an extremely complicated ordinance and I can't believe that talented people that are up there can't come up with something a little bit more simple that would also be a little bit more equitable. I own a couple of investment properties, 3 and 4 units, 6 unit properties and I am required by the City annually to supply you with the name of who my trash hauler is. And I understand that if I don't supply the name of my trash hauler, that mean and nasty things will happen to me, including the City will provide for a trash hauler to pick up my trash, fine me until I do provide the name of my trash hauler. I don't understand why as an owner of a 3 or 4 unit or 6-unit apartment house. If that works and has worked up until now why can't that work for everybody in Lancaster?

Pres: Sir, hold your point, hold your point. We are not regulating or changing the regulations on anything over three units.

Diller: I understand that, but I am saying, if it works, you've got this one system over here that you are not changing because it works great, right? For 3 and 4 and 5 and 6 unit apartment houses. If that works great and it's simple, why in the world wouldn't you use the same system for everybody else.

Pres: Because we don't have the lists, like you may provide the list, but we don't have it.

Diller: You know everybody in the City who owns every property, come on. You don't have a list of who owns property in the City? I can't believe that. If you don't, the newspaper certainly has a list of everybody that owns property in the City.

Pres: But we don't know who has haulers and who doesn't have haulers.

Diller: You don't know who my hauler is right now for my 3 unit apartment at 421 West Walnut Street and then you send me a letter every year saying in order to get this re-licensed, I have to send you the name of my hauler and I send it to you.

Mayor: I had a discussion with Mr. Mateyak a couple of minutes ago. Maybe this is correcting a technical problem, but I don't think, and maybe the advertising was properly put out, but I don't think there has been enough information that we are reconsidering this thing this evening. It might be legally right, but I don't think it's morally correct.

Diller: Anyhow, it just seems like with such an astute group of people who are, this is a very complicated ordinance to solve a very simple problem. That you've already got an ordinance for 3,4,5,6, 7 multi-units that works.

Pres: Well, sir, it is not a real simple problem out there, the trash problem we have in the City is not simple.

Diller: I think you are making it unsimple, I'd have to agree with you there.

Ms. Roberta Spiece: I would like to make one more comment, that I definitely don't think it's the free market way. And I'm going to wind up paying for all this bureaucracy. I would hate to tell you what I pay now. It's very low and this system, I just can imagine my bill is probably going to double.

President: We have a motion on the floor and a second. Call the roll.

Clerk: Graupera, yes, Lehman, yes, Mendoza, yes, Stoltzfus, yes, Pres. Polite, yes.

President: We need a motion to adopt the ordinance, re-adopt as amended.

Mendoza: And again Mr. President. This is a vote for basically, an ounce of prevention, preventing the City for being sued if we don't proceed with this clarification with this step. It's not necessarily voting for the amended ordinance.

Pres: I ask for a motion please, before we discuss.

Mendoza: I would like to make a motion to vote for an act of prevention, basically.

Graupera: Second. Mr. President, I would like to add that that's my sole motivation for voting for this too. To keep any future challenges from the City.

Lehman: Mr. President. I believe an ounce of prevention is reasonable. I 'm not convinced of the remedy. I have said that privately, I want to say that publicly. But I do believe that an ounce of prevention is always prudent.

I will say this to the Mayor, that if you feel strongly about this and the Solicitor's correct, and you get to veto it. If you feel that strongly about it and you're going to veto it, I'll support you. Otherwise, we have seven thousand people in the City who do not have trash pickup. We have senior citizen discount that is required under this. It will be the Board's responsibility; it will be the Mayor's responsibility and this Council's responsibility to make sure that that discount means something. Is it going to be perfect? No. Is any system going to be perfect? No. The question becomes; Do you want the streets cleaned up or not? Is there an easy answer? No. The simple answer is to simply to go to a single hauler. That's the easiest way. But we have a city where people want choice. This Council has tried to respond by giving folks limited choice in a way that will not make this a nightmare to implement. That's reasonable. This Council has also decided that it is unreasonable for government to put people out of business. We have said to the haulers, we're going to keep you in business. Not only that, we're going to make it less expensive for you to operate. If you want to work in the City of Lancaster,

we're going to support you. That's the way Lancaster is. That's the City of Lancaster. All those things are important. When you try to put a proposal together, that tries to take care of all those things, a senior citizen discount, choice, keeping folks in business. It's not an easy task. Is this a perfect system? No. But the question becomes, Do you want to take leadership on an issue or not? Quite frankly, this hasn't been easy for anyone and I am disappointed at the Mayor for waffling back and forth. If he feels strongly about it, then he should veto it. If not, he should support it. This is not about playing politics. This is about doing what is right for the City of Lancaster. Thank you, Mr. President.

Mendoza: I definitely support Councilman Craig Lehman's comments and also would like to remind Council that some of my recommendations included a 50% discount to senior citizens. I just wanted to emphasize that, because it does not define what the percentage should be and I think they deserve the discount.

Stoltzfus: I know the Mayor has something to say about this, but from the very beginning, this has been about leadership. This has been about a problem that has come to us that we would have to address, that we would have to take some steps in order to resolve them. At the very beginning when the proposal was put out, people said, "we want choice." Well, we compromised and we gave them choice. Now, there seems to be a problem with that. So I don't understand, you can't have it both ways. You have to say that you want a cleaner city, you want the trashhauling to work, because it doesn't work now. You want to address the issues that people pose to you. You want to take care of them and you want to do it in a way that in the future everyone's going to be happy with. So, from the very beginning it's always been about a cleaner city, trying to take some leadership on an issue that no one seems to have taken care of in the past. And, I think you should be for something. So, I'm a little disappointed as well. Thank you.

Mayor: I just want to correct one thing that Craig Lehman's eloquent speech. This creates an authority. An authority is not controlled by myself, meaning the Mayor, whoever is sitting in my chair, nor City Council. And the only way you can correct an authority is by a take back position. And that's a very ugly process and that's one of the reasons, after I thought it through a little bit further, when you get into the authority concept, that's why I think it has a weakness.

Stoltzfus: Mr. President, this authority does not have the ability to tax people, they are not getting paid, so if it doesn't work, then this Council or a future Council whatever the people decide who should be up here, can say, no, we don't want to do this anymore. We will go back to the status quo. But the status quo hasn't been working, so we come up with some kind of plan and take some leadership roll and get it done. As far as the argument that this authority is out of our hands, sure it's out of our hands. It doesn't have the power to tax; it doesn't pay anybody on the authority. It's an act of simply dissolving that authority if it does not work.

Lehman: I would like to take this opportunity to publicly encourage the Mayor. You're the only person that gets input at this point, because the Board of Health is going to

become the Board of Sanitation. You get to appoint an advisory committee. Appoint an advisory committee that's going to put senior citizen discounts that's going to make a difference to these folks and make sure that the choice option does not become unwieldy. Cause you do have that power.

Mayor: Mr. President, I have the authority to put the advisory board, but City Council is the only person that can put people on the Health Board.

Lehman: And the Health Board is already set.

Mayor: And if I do veto this, the only thing I'd be vetoing would be, the way I see it, the reconsideration. Not vetoing the whole bill. The time is lapsed. It's been past 10 days.

Mendoza: I am surprised we are going through this process when Dr. Henderson has worked so hard. I commend her for the effort and the time she has put, as well as the City Solicitor, before this came to our Public Works Committee, and the thing that surprised me is the fact that she was hired by the Mayor and she has been working on this for the last 5 months. This argument should have never left City Hall. It should never left his desk. It should have been killed right there, if the Mayor disagreed with this. To come to the press and say that he has something better after she works so hard on this for 5 months, after we have spent so much money on the City Solicitor taking line item by line item, before it is presented to Committee of Council. And now saying that we have something else, or he has something else, to me it is unacceptable. We worked extremely hard on this amendment last time debating this and to come to say that we have something else after he himself hired Dr. Henderson, and basically this went through his desk, I don't understand that. Councilman Craig Lehman and Councilman Harry Stoltzfus indicated that this Council has worked extremely hard reviewing this, re-evaluating, public meetings, listening to other trash haulers, exposing those who have not participated in helping the City in identifying the city residents who do not have trash service. Trash haulers who were not registered with the City, refused to give the lists, and they were told that they were not supposed to do it by somebody else, it was going back and forth and to say right now that, with all respect to you, Mayor, that you don't support something that you're office approved and you are the person who developed this, I don't quite understand that, I am extremely confused. I don't understand that.

Lehman: Call the question.

President: Call the roll please.

Clerk: Mr. Graupera, yes. Mr. Lehman, yes. Mr. Mendoza, yes. Mr. Stoltzfus, yes. President Polite, yes.

Council re-approved Council Ordinance No. 3-2000 and it will be hereinafter known as Council Ordinance No. 3-2000 as amended.

Council Comments: President Polite: I just want to say that when I campaigned office and when I took office, I promised the citizens of Lancaster that I would, and I asked all the Councilmembers to leave politics at the door and that's what I meant. And I certainly will do that. Looking at the whole picture of the City, I feel that we as Councilmembers must take the lead and try to devise the best system that we can possible do to clean up this City. And I think all of us want to clean up the City and as Councilman Lehman just mentioned to you, that we are going to save the independent haulers, those who want to be a part of it and we are going to make sure the seniors especially are given the proper discounts. Everyone in the City should save money, because some of the bills, I've actually seen some bills of people that are paying through the nose for trash pick-up and it is just outrageous. From what I can gather there will not be near that type of fee for pick-ups. So I hope that we go forward from here and I want to thank Dr. Henderson and her group for getting us this far and I know there is a lot of work to be done throughout the year in order to come up with the proper rules she assures us will be brought back to Council, that we might review them and have our input and recommendations. So, we can't satisfy everybody, we know that, but we are trying to do the best we can because we have the interest of the City. We need to clean up the City.

President Polite adjourned the meeting at 9:05 p.m.

President

Attest:

City Clerk