

STATED MEETING - CITY COUNCIL – JANUARY 13, 2015

A meeting of the Lancaster City Council was held on Tuesday, January 13, 2015 in Council Chambers, 120 North Duke Street, (Rear Annex) Lancaster, PA, at 7:30 p.m., with President Graupera presiding.

The Council led the assembly in the Pledge of Allegiance.

Present – Mr. Reichenbach, Mr. Roschel, Ms. Sorace,
Ms. Williams, Ms. Wilson, President Graupera – 6

Excused – Mr. Soto - 1

The minutes of the meeting of Council for December 16, 2014 were approved by a unanimous roll-call vote.

PUBLIC COMMENT – Norman Chancy, of 1725 Williams Road, complained about the rough condition of several city streets. In particular, he cited the first block of Farnum Street, where it crosses Queen Street; the Hager and South Prince streets intersection; and at Washington Elementary School at Chesapeake and South Ann streets. Mr. Chancy said a driver can nearly lose control of their vehicle when driving on those streets. He was particularly concerned as two of those locations are near schools. He asked that streets be milled or patched until they can be repaired later.

Mr. Chancy was directed to Pat Brogan, the Mayor's Chief of Staff, who would take information from him and communicate it to the appropriate city officials.

REPORTS OF COUNCIL COMMITTEES

PUBLIC SAFETY – No report

PUBLIC WORKS COMMITTEE – Councilman Roschel reported that the committee met January 3 and discussed two items.

The first was a request from a member of the public that the city ban the herbicide marketed under the name Roundup. The legal opinion of the city solicitor was that a city ban of the use of the herbicide was pre-empted under state and federal law. Mr. Roschel said there was consensus among city officials to use as little of the product as reasonably possible.

The second item was a discussion of possible amendments to the city's litter ordinance to expressly prohibit moving yard waste from one private property to another. The solicitor's opinion was that yard waste was already included in the ordinance. While the language could be more specific, Mr. Roschel said the committee decided not to pursue the minor change due to the cost and because the issue is already covered by the law.

ECONOMIC DEVELOPMENT & REVITALIZATION COMMITTEE – Mr. Reichenbach reported the committee met January 3 and discussed Administration Bill No. 1, the reauthorization of the Downtown Investment District. Mr. Reichenbach cited the DID board's efforts to increase representation and additional contributions from non-profit organizations. The renewal plan also

includes a small increase in the area and number of properties within the DID; does not increase the millage rate paid by property owners and continues the DID emphasis on “clean and safe” services.

Mr. Reichenbach said the committee also discussed Resolution No. 1, which reauthorizes third-party inspectors to work on behalf of the city to inspect building construction under the Uniform Construction Code.

FINANCE COMMITTEE – Ms. Sorace made a motion to approve the Fourth Quarter Legislative Workers Compensation Transfer, in the amount of \$30,873.88, to cover costs in the fourth quarter of 2014.

The motion was second by Mr. Reichenbach and unanimously approved by a roll-call vote.

Ms. Sorace also noted that Administration Bill No. 2, concerning an increase of water rates within the city, was also discussed by her committee and is on the agenda for its first reading at this evening’s meeting.

COMMUNITY DEVELOPMENT & PLANNING COMMITTEE – Mr. Reichenbach, on Mr. Soto’s behalf, noted Historical Architectural Review Board and Historic Commission Recommendations reviewed by that committee are also on this evening’s agenda.

PERSONNEL COMMITTEE – Councilwoman Williams made a motion to appoint Jami Rhynes to the Human Relations Commission and reappoint Janice Stork and Flor Santalo to the Planning Commission, Donald Main and Mimi Shapiro to the Historical Architectural Review Board, and Pat Coller to the Historical Commission.

The motion was seconded by Councilwoman Wilson and unanimously approved by a roll-call vote.

City Council considered the following applications (Historical Architectural Review Board and Historical Commission recommendations) for improvements to properties within the Historic District and Heritage Conservation District:

1. Robert Gepert and Anne Labat-Gepert, 420 W. Chestnut St., and Dale and Ruth Umble, 422 W. Chestnut St., request replacement of wood siding and an overhead door on a shared rear garage. (Recommended for HARB approval)

Councilman Reichenbach made the motion to approve. Councilwoman Wilson seconded the motion. The recommendation was unanimously approved by a roll-call vote.

2. 516 EC LLC, owner of 516 E. Chestnut St., proposes installation of a stone veneer on a brick building’s gable-end wall (after-the-fact). (Recommended for denial by the Historical Commission)

Councilman Reichenbach made a motion to accept the Historic Commission’s recommendation to uphold city law that prohibits stone-veneer coverings on brick structures in the Historic District. Yet, that recommendation did not call for removal of the stone veneer. Mr. Reichenbach cited the fire ravaged condition of the building, prior to renovation, the fact that a building permit for the project was issued prior to the passage of the 2014 ordinance and that a third-party inspector working on behalf of the city as reasons

not to require the removal of the stone. The city will issue a certificate of occupancy.

Randy Patterson, city Economic Development & Neighborhood Revitalization director, said the extenuating circumstances in this case were the basis of the Historical Commission recommendation.

The motion was seconded by Mr. Roschel and approved by a roll-call vote.

NEW BUSINESS

Administration Bill No. 1-2015, (the title) was read by the City Clerk as follows:

An ordinance of the City Council of the City of Lancaster, Lancaster County, Pennsylvania, approving the plan of administrative services of the Lancaster Downtown Investment District Authority; providing for the repeal of inconsistent ordinances; providing for the severability of the ordinance; and providing that the ordinance shall take effect as provided by Pennsylvania law.

Councilman Reichenbach stated the ordinance would reauthorize the administration of the Downtown Investment District. He also thanked Mr. Marshall Snively and members of the DID board for their efforts in drafting a new, four-year plan for the DID and their outreach to downtown property owners.

This is the first reading of this bill.

Administration Bill No. 2-2015, (the title) was read by the City Clerk as follows:

An ordinance of the City Council of the City of Lancaster, Lancaster County, Pennsylvania amending Section 295-58 and 295-60 of the Code of the City of Lancaster to change the water rates for customers within the city limits, effective March 5, 2015; providing for the repeal of inconsistent ordinances; providing for the severability of the ordinance; and providing that the ordinance shall take effect as provided by Pennsylvania law.

Councilwoman Sorace stated this proposed water rate increase will place Lancaster city in the middle of the range of costs charged by water utilities in Lancaster County. The city's last water rate increase was in 2005, which was for two water microfiltration plants, at a cost of \$100 million. The additional funds from this water rate increase will allow the city to continue upgrades to its aging water infrastructure. She also cautioned that another, incremental water rate increase is likely in the not too distant future as the city continues its infrastructure replacements.

This is the first reading of this bill.

Administration Resolution No. 1-2015, (the title) was read by the City Clerk as follows:

A resolution of the Council of the City of Lancaster approving and authorizing third party agencies to act on behalf of the City of Lancaster regarding the enforcement of the Pennsylvania Construction Code Act (Act 45 of 1999) and the Uniform Construction Code, as permitted by Ordinance No. 12-2004, Section 116-3 B, adopted June 22, 2004.

Mr. Reichenbach made the motion to approve and Councilwoman Roschel seconded the motion.

Mr. Reichenbach said the resolution reauthorizes firms to act on behalf of the city in enforcement of the Uniform Construction Code.

Mr. Chris Miller, who owns 111 E. Chestnut St. and other properties in the city, expressed concern about a lack of accountability in the third-party inspection process. He said the process does not allow neighboring property owners to challenge the results of inspections before the Building Code Board of Appeals if no violation is found by the inspector. They cannot do so because they did not apply for the building permit and are not considered a party to the proceedings. He asked for the city to review third-party inspection results.

Mr. Patterson commented that third-party agencies contracted by the city as inspectors are certified by the state. The city does not do a re-review of a state-certified firm. If someone has concerns about the findings of a state-certified inspector, Patterson said they should take up the issue with the certifying agency, the state Department of Labor and Industry.

City Council approved Administration Resolution No. 1-2015 by a unanimous roll-call vote.

Administration Resolution No. 2-2015, (the title) was read by the City Clerk as follows:

A resolution of the Council of the City of Lancaster asking Franklin & Marshall College and Lancaster General Hospital to consider pursuing a professional study of the historic and cultural significance of a steel pedestrian bridge at the former Armstrong Floor Plant site with the intent of retaining the bridge at its current site.

President Graupera stated that discussion between the parties interested in preserving the bridge on the site and those interested in developing the site after removing the bridge has increased since council began deliberating the resolution. That was council's goal. He said the conversation has shifted to demolition of the bridge, which was not addressed in the resolution.

Mr. Reichenbach requested representatives from the two parties be allowed to address council before council members voted whether to consider the resolution.

Mr. Patterson first told council that his investigation found that the demolition permit which was issued was for buildings along Harrisburg Avenue, not within the Dillerville rail yard, and did not include the bridge. The rail yard, where the bridge is located, is also not in the Heritage Conservation District and thus not subject to Historical Commission review.

Mayor Gray said he had asked the solicitor for a legal opinion, which he will share with council when it is available.

Former Mayor Art Morris said he came to City Hall to inquire about the demolition permit and was told by a building official that the bridge is in the Heritage Conservation District. He maintained that the northern access to the bridge is in the district, and its demolition should be reviewed by the Historical Commission in a public meeting.

Mr. Patterson maintained the bridge is not in the district, but if it is, then he maintained that it is not a structure under the definition of the Heritage District Ordinance, and therefore not subject to Historical Commission review.

Keith Orris, of Haverford, Pa., speaking on behalf of the project development partners, read a letter from historic consultant David Schneider. Schneider wrote the bridge was not within the scope of his review, which was conducted to meet the requirements of the Pennsylvania

Historic & Museum Commission. Had the bridge been included, Schneider wrote he would have considered it a contributing element to the Armstrong complex. Yet, it would likely have been torn down along with the much of the Armstrong factory. In 2008, the bridge was determined ineligible for the National Register of Historic Places by the PHMC based on a review by Cultural Heritage Research Services Inc. That review was done for the Dillerville Rail Yard Consolidation Project and narrowly focused on the Pennsylvania Railroad and did not consider the bridge's relationship to the Armstrong plant. Yet, Schneider wrote the bridge's connection to Armstrong was lost when the factory buildings were demolished in 2007. The bridge's integrity as a historic resource was further compromised by the removal of the rail lines it spanned. Relocating the bridge within the rail yard site and reusing it as a decorative element would remove any historical integrity the bridge now retains and render it "a displaced orphaned artifact," Schneider wrote. He recommended the bridge be reused in a park or other site where it would serve a utilitarian function. An interpretative sign can be added that would relate the history of the structure.

Mr. Morris commented Mr. Schneider's letter conveniently refuted all arguments of those attempting to save the bridge. Yet, he said, the question remains: does the bridge deserve to be discussed locally, given its place in the history of the city, regardless of whether it meets national historic standards? He maintained the public meetings in which the rail yard redevelopment was discussed, cited by Mr. Patterson, did not focus on the bridge. He maintained there was never an adequate public discussion about the fate of the bridge. And, he restated his argument that the demolition permit should be reviewed by the Historical Commission.

Mayor Gray asked if the bridge is so important, why was the bridge not discussed years ago?

Mr. Morris answered that the bridge became a public issue only after a November newspaper article about it and public discussion may have occurred earlier had there been public meetings specifically about the bridge. Mr. Morris suggested that those meetings didn't occur is the fault of the city administration.

Gene Aleci, 355 W. Orange St., said the situation calls for a public discussion about what the citizens of the city feel is historic. And, he agreed with Mr. Morris that the issue of preserving the bridge was not raised until recently because most people were unaware of the pending demolition until the November newspaper article. He further spoke in support of an expert review of retaining the bridge.

Mike Davis, an attorney with Barley Snyder, 126 E. King St., representing the project partners, said the rezoning of the rail yard was presented to City Council in May 2012, where the fate of the bridge was questioned by Councilman Nelson Polite. The land plan for the site, clearly showing the pedestrian bridge removed, was reviewed and approved by the city Planning Commission at a public meeting. During the process, Franklin & Marshall College and Lancaster General Hospital have held numerous public neighborhood meetings. When the issue of the bridge was raised, the response from the project partners has consistently been that it would be removed.

Jean Weglarz, 515 E. King St., and the Planning Commission chairwoman, commented that the advertised agenda for the Planning Commission meetings at which the rail yard rezoning was discussed made no mention of the bridge. When a question was raised about the bridge, Planning Commission members were led to believe it was not part of the plan and commission members did not believe they were voting to approve demolition of the bridge.

John Spidaliere, 337 E. Walnut St., said he assumed that F&M and LGH would recognize

the significance of the bridge to the community and act accordingly.

President Graupera reminded everyone that the resolution called for F&M and LGH to consider retaining a professional to study the historic and cultural significance of the bridge with the intent of retaining it on the former Armstrong site. President Graupera said that is all council members should be considering. He said the options are: to make a motion to vote on the resolution; a motion to table; or no motion, through which the resolution would die.

Councilwoman Sorace commented that she thought the bridge was staying until recently learning of plans for its removal. She believed its presence on the site would serve as a reminder of the site's history. She was not aware it was to be removed until the November newspaper article. She expressed that its removal would be sad for city and the many people for whom the bridge is significant. She also expressed appreciation for the due diligence shown by the project partners and those wishing to preserve the bridge. She questioned whether the resolution before council is actually the right resolution and whether council should be the body hearing the discussion. She asked: why it is not possible to have additional discussion about the issue? Another professional study would likely not resolve anything, she said.

Mayor Gray said that if the solicitor renders an opinion that the matter should be reviewed by the Historical Commission, then the commission's recommendation will eventually come before council for a vote. The mayor recommended the resolution be tabled until the solicitor has an opportunity to consider the issue. The solicitor's opinion would be ready for the next council meeting.

Councilwoman Wilson commented that the resolution at hand does not pertain to the issues being discussed and is no longer relevant.

Councilman Reichenbach agreed the resolution is no longer valid. He expressed concern the discussion was becoming polarized and the project partners were being demonized. The real issue is whether the bridge is in the Heritage Conservation District. If it is, a discussion about the bridge can be held by the Historical Commission and, later, by council. If it is not, then the project partners have been notified that there is public interest in preservation of the bridge. Yet, if the partners do not have public meetings about the bridge, council is powerless to force them, Mr. Reichenbach said. He suggested waiting for the solicitor's opinion is a compromise, and based on that opinion, appropriate action can be taken.

Councilman Roschel said he felt the resolution should die for lack of a motion because it is irrelevant.

Mayor Gray asked the project partners representatives why the bridge must be removed in March.

Mr. Orris, the project executive, responded the project is on a schedule to extend Liberty Street through the site and to bury electrical cables. Funding for those aspects of the project are tied to calendar year completion. The bridge is an obstacle to both facets of the project.

Mr. Morris asked that the resolution be revised rather than dismissed. He further noted the bridge could be rather easily repositioned on the site. He contended the partners could wait longer if they choose to do so. For the partners, it is an inconvenient truth that the bridge remains there, he said.

Mr. Aleci contended the solicitor's narrow, legal opinion will miss the point. What everyone wants to know is: what is the proposal for the bridge and how can it serve a purpose on the site?

Ron Mundy, 423 W. Orange St., asked whether the partners actually have a permit to demolish the bridge.

Mr. Patterson answered that if it is determined that the Heritage Conservation District Ordinance is not applicable, then no permit is required.

President Graupera declared that whether the resolution is relevant or not, it has certainly started a conversation. He then asked council members to make a motion to act on the resolution.

Councilwoman Williams made a motion to table the resolution. The motion was seconded by Councilwoman Sorace. The initial vote was approved by 4-2 roll call vote.

Councilman Reichenbach then asked for a clarification, asking if tabling would put the motion aside. When told that it would, he asked to change his vote. The subsequent re-vote failed with a 3-3 tie vote.

Mr. Morris then questioned Councilman Wilson's participation in the vote, after she announced at the January 5 committee meeting that she would abstain from voting on the resolution because she is an employee of Franklin & Marshall College.

Councilwoman Wilson explained she was only voting to table the resolution, which she believes is irrelevant to the broader discussion.

Mayor Gray then pointed out that a motion had not been made, seconded and approved to place the resolution on the table for discussion. Then, tabling the resolution would have to be voted on and approved. The effect of tabling it would just put it on the agenda for the next meeting.

Mr. Patterson noted that tabling does not prevent bringing back a new resolution related to the subject.

Mayor Gray said the solicitor's report can be presented to council members at their next meeting, as a "report requested by council." Then, council members can decide whether to again discuss the resolution.

Sally Jarvis, formerly of North Charlotte Street, now of Willow Valley, asked whether the bridge will be torn down as a result of the delay.

Mr. Patterson responded that if the solicitor determines the ordinance is applicable, the Historical Commission can discuss its fate at their February meeting. That would still allow for action by the partners before their March 16 deadline.

Councilman Reichenbach said he voted "no" to the resolution because the bridge has already been studied and further study is unnecessary. The "no" vote was directed at the resolution, not whether he believes the bridge should stay or go.

Councilwoman Wilson agreed and said her opinion was not influenced by her employment by the college.

Mr. Patterson reminded council members the motion was never made, seconded and approved to place the resolution before council for discussion. Council could not vote to table a resolution that procedurally did not yet exist.

President Graupera then asked for a motion to place the resolution on the table.

That motion was made by Councilman Reichenbach and seconded by Councilwoman Sorace. That motion was approved by a 4-2 roll-call vote.

President Graupera then asked for a motion to take action on the resolution.

Councilwoman Sorace then made a motion to table the resolution pending the solicitor's opinion. That motion was seconded by Councilwoman Williams.

That motion to table failed with a 3-3 tie vote.

Councilman Reichenbach then made a motion to reject the resolution. That motion was seconded by Councilman Roschel.

The motion to reject the resolution failed on a 3-3 tie.

Mayor Gray then suggested the resolution be tabled to allow for discussion and possible amendment at the next meeting and to allow the current discussion to end.

President Graupera then asked for a motion to take action, anticipating that another 3-3 would allow the resolution to die. Yet, a motion was not needed, as the resolution was still on the table.

A subsequent vote yielded passage of the resolution by a 3-2 vote. Councilmen Reichenbach and Roschel voted against the resolution and Council members Sorace, Williams and President Graupera voted in support. Councilwoman Wilson, an employee of Franklin & Marshall College, abstained from the final vote.

PUBLIC COMMENT – Mr. Spidaliere thanked council members and Public Works Director Charlotte Katzenmoyer for the city’s hard work over a two-year process to repave Brewers Alley, behind East Walnut Street. He said the result was excellent.

Susan Love, of Columbia, representing GMO Free Lancaster County, provided additional information about the dangers of the herbicide glyphosate, which is used in the consumer product Roundup. She thanked council members for considering a ban on the use of the herbicide, which the city solicitor said would be preempted by state and federal law.

REPORT OF THE MAYOR – Mayor Gray read the following prepared statement:

I’m pleased to report that, thanks to intervention by Senator Smucker, PennDOT has allowed us to proceed with planned improvements to the streetscape around Central Market and the Heritage Quadrant of Penn Square. A request for proposals to complete these improvements has been issued and project bids are due by January 29th. We expect construction to begin in April and continue through April 2016. This \$2.2 million project is the third and final phase of our downtown streetscape improvement program, and will include new brick work and granite poetry path in the Heritage Quadrant, new brick pavement with granite sidewalks around Central Market including on North Market Street from King Street to Orange Street, new pavement and sidewalks on West Grant Street from Penn Way to N. Prince Street, new brick pavement on William Henry Place and Penn Way, and new boulevard, in-ground or bollard lighting throughout. Other features will include new traffic signal poles at Queen and King Streets and at Market and Orange Streets, new planters and traffic signal controller at Penn Square (yes the mushroom structure is going away), new brick crosswalks at Penn Square, new curb ramps, audible pedestrian signals, wayfinding signage for Central Market, and site furnishings to include benches, litter and recycling receptacles. Finally, green infrastructure elements in several locations will include a cistern that will provide LEADS with rainwater for the beautiful planters placed in the downtown during the summer months. With completion of this third phase, the City’s major corridors in the Central Business District and the Central Market district will have seen streetscape enhancements for the first time in decades.

A request for bids has also been issued for renovations to the old City Hall, commonly known as the Heritage Center. As you know, plans are underway for the Lancaster Office of Promotion (LOOP) to establish a City Visitor’s Center at this location. We expect that renovations will be completed in time to allow the Visitors Center to be fully operational by spring.

Beginning this month, the City's solid waste hauler will begin accepting cardboard and paperboard of any size or quantity for collection at curbside. And last month, the City began the annual permitting process for independent trash and recycling haulers. As a condition of permitting, all vehicles in the City that collect municipal waste or recycling must be inspected by City Police, and provide proof of required insurance. Permitted haulers must also submit customer lists to ensure that multifamily dwellings and businesses have regular collection service. The number of independent haulers in the City has held steady at 14 over the past three years. This permitting process has proven to be an important supplement to our Single Hauler Program that has effectively reduced illegal dumping and litter, and increased recycling citywide.

We are joining with the City of Bethlehem to host a one-day forum here in Lancaster to discuss the CRIZ Program. Presentations will be given by Lancaster and Bethlehem on how we are implementing the CRIZ Program and our experiences to date. Staff from both cities will discuss some of the issues encountered in working with developers. Discussion about CRIZ requirements and interaction between a City and the Commonwealth will also be discussed. Cities that are eligible to apply for the CRIZ Program beginning in 2016 and other third class cities that may want to find out more about the program have been invited. We expect the Mayors, Economic Development Directors, developers and others from these cities to attend. The result could be a list of program administrative and legislative changes that could be recommended to the Commonwealth and Governor-elect Tom Wolf's administration.

REPORT OF THE PRESIDENT – President Graupera apologized for the near total confusion in discussing and voting on Resolution No. 2. In his nearly 12 years on City Council, Mr. Graupera said he had not seen anything like it. He took full responsibility and said it would not happen again.

COUNCIL COMMENTS – Councilwoman Wilson reminded those in attendance of the NAACP's annual Martin Luther King Jr. memorial service, to be held Sunday evening at Trinity Evangelical Lutheran Church, 31 S. Duke St., and the Crispus Attacks Community Center's 27th annual Martin Luther King Jr. breakfast, to be held Monday morning at Franklin & Marshall College's Alumni Sports and Fitness Center, 929 Harrisburg Ave.

Councilwoman Sorace added that at 3 p.m., Sunday, the J.P. McCaskey High School Gospel Choir will perform at St. John's Episcopal Church, 321 W. Chestnut St., in commemoration of Martin Luther King Jr..

Councilman Reichenbach thanked the project partners in the redevelopment of the Dillerville Rail Yard and members of the public who came in support of the bridge for coming to the meeting and voicing their concerns. He also apologized if he had added to the confusion in any way. The goal was to communicate to the partners that the public was concerned and he believes that was heard. He said it is heartwarming to see people come to the meetings, even if it was confusing at times.

President Graupera also mentioned that on Thursday evening, January 15, the Lancaster

City Alliance will hold their second public meeting to discuss a new strategic plan for Lancaster. The meeting will be held at the Bright Side Opportunities Center, 515 Hershey Ave.

Paul Kettering, whose Monster Construction business is located at 401 W. Orange St., addressed the discussion of the pedestrian bridge at the rail yard. He expressed concern the city was making it difficult for investors and developers to do projects in the city. He asked how it was fair to ask the project partners to fund another study, costing them more money and delaying their project. He said it will affect projects in the future.

Councilman Roschel responded that it was a non-binding resolution that will not require the partners to fund the study nor delay the project.

President Graupera adjourned the meeting at 9:38 p.m.

John E. Graupera, President

Attest:

Bernard W. Harris Jr.
City Clerk