

STATED MEETING - CITY COUNCIL – APRIL 23, 2013

A meeting of the Lancaster City Council was held on Tuesday, April 23, 2013 in Council Chambers, Southern Market Center, 100 South Queen Street, Lancaster, PA, at 7:30 p.m., with President Williams presiding.

City Council led the assembly in the Pledge of Allegiance.

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

Excused – Mr. Smith - 1

City Council approved the minutes of April 9, 2013 by a unanimous roll call vote.

President Williams announced that there was an executive session held before the Council meeting to discuss the possible purchase of real estate.

Mayor Gray presented a commendation to Mr. Russ MacNair, Engineer, CDM Smith Inc., on his retirement. Mr. MacNair has worked closely with the City's Public Works Department since 2002,

PUBLIC WORKS COMMITTEE – Chairman Roschel stated that City Council had a special meeting last night where we discussed the Right-of-way Ordinances, which are Bill No. 2-2013 and Bill No. 3-2013 on tonight's agenda.

PERSONNEL COMMITTEE – Chairman Graupera stated that he has a re-appointment and an appointment to the Lancaster City Housing Authority. The first is Phil Calhoun's reappointment to the Authority and the next is the appointment of Joseph Morales to the Authority. He made the motion to approve and Councilwoman Wilson seconded. City Council approved the motion by a unanimous roll call vote.

City Council considered the following applications & (Historic Commission recommendation(s) for construction & demolition within the Heritage Conservation District:

1. Kyle Sollenberger, to demolish one and two-story brick and one-story cement-block industrial structures and create surface parking and vehicular access, and enlarge the existing masonry building by adding a second-story frame addition, at 315 East Marion Street.
2. Elimanuel Garcia, to construct a new one-story, four-bay garage at 317-319 West King Street.
3. Suhk Oil, Inc., to construct a new one-story convenience store and a new overhead

canopy above gas pumps, at 401 North Lime Street.

4. West Andrew LLC, to construct two one-story steel structures on existing surface at 13 Campbell Street.

5. West Andrew LLC, to construct an L-shaped one-story steel structure containing 8 garage stalls, at 70 Campbell Street.

6. West Andrew LLC, to construct two one-story steel structures containing nine garage stalls at 524 Lafayette Street.

Councilman Urdaneta made the motion to approve and Councilman Graupera seconded. City Council approved the decisions of the Historic Commission by a unanimous roll call vote.

Administration Bill No. 2-2013, (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 A NEW CHAPTER TO THE CODE OF THE CITY OF LANCASTER, CHAPTER 263-RIGHT OF WAY MANAGEMENT TO IMPLEMENT A COMPREHENSIVE PROGRAM FOR MANAGEMENT OF THE RIGHTS OF WAYS OF THE CITY, CONTAINING PROVISIONS INCLUDING, BUT NOT LIMITED TO: RIGHT OF WAY USE AUTHORIZATIONS, RIGHT OF WAY USE AGREEMENTS, THE ESTABLISHMENT OF A RIGHT OF WAY USE PERMIT PROCEDURE, PROVISIONS REGARDING TRANSITION FROM EXISTING CITY ORDINANCES TO THE RIGHT OF MANAGEMENT ORDINANCE, PROVISIONS REGARDING EXISTING CABLE FRANCHISES OR OPEN VIDEO SYSTEM FRANCHISES, RENEWAL AND TRANSFER OF RIGHT OF WAY USE PERMITS, REGULATIONS FOR CONSTRUCTION IN THE RIGHTS OF WAY, THE ESTABLISHMENT OF A RIGHT OF WAY MAINTENANCE FEE, ESTABLISHMENT OF PENALTIES AND REMEDIES, AND PROVISIONS REGARDING PROPRIETARY INFORMATION, LEASED FACILITIES, DUTIES TO PROVIDE INFORMATION, THE CITY'S RIGHT TO INSPECT RECORDS, WAIVERS, THE ABILITY OF THE DIRECTOR OF PUBLIC WORKS TO ESTABLISH FURTHER REGULATIONS, POLICE POWERS OF THE CITY, SEVERABILITY OF THE ORDINANCE AND THE EFFECTIVE DATE OF THE CODE PROVISIONS. THE ORDINANCE FURTHER PROVIDES FOR THE REPEAL OF INCONSISTENT ORDINANCES, THE SEVERABILITY OF THE ORDINANCE AND THAT THE

ORDINANCE SHALL TAKE EFFECT 30 DAYS AFTER ADOPTION.

Councilman Roschel stated that this ordinance and the next ordinance are related with the Right-of-way management. On April 1, the Public Works Committee discussed this for about 15 minutes, but last night we had a special meeting with a power point presentation and a booklet provided by CBG Communications.

The City of Lancaster is obligated to maintain its rights-of-way, primarily for public concerns, but also to maintain an orderly flow of traffic, both vehicular and pedestrian. And also to provide an efficient service to the public to economic opportunities. The City conducted a lengthy study to determine the real cost associated with managing the rights-of-way, with respect to third party facilities, like PPL, UGI, Verizon, Comcast, etc. The study concluded that the providers are not paying their fair share of the real costs of right-of-way management and that the City taxpayers are picking up the tab for the rest of the costs. Because of this discrepancy, the City Administration is proposing two related ordinances. The first ordinance, Bill No. 2, creates a new chapter, Chapter 263, which is Right-of-way Management, and that chapter is to implement a comprehensive right-of-way management program. Included in this chapter is the requirement that all third party providers using the City's right-of-way establish either a right-of-way agreement or a franchise agreement with the City. Also required, the providers will need to pay a fee to obtain a right-of-way user permit. The ordinance goes on to offer further right-of-way management guidelines. These guidelines are related to transition from the current system, facility modifications, new construction, right-of-way maintenance fees and penalties for non-compliance. Bill No. 3 is also related. As he mentioned, the study determined that the City taxpayers are paying a majority of the costs to manage and maintain the right-of-way used by third party providers. This Bill amends sections of the current City Code to add permits and fees for curbs and sidewalk construction, replacement and repairs, as well as private driveways and street opening degradation fees. The ordinance also adds fees for erection, replacement of utility poles and a fee for the placement of dumpsters. It is important to note that these fees are only allowed to recover the costs of management of the City's right-of-way. It cannot be used to add revenue to the General Fund. We used 2011 budget figures and the consulting team at CBG Communications determined that annual City right-of-way management costs were around \$824,890. Some of these costs are picked up through Sewer and Water rates, and other current charges. But the balance, an estimate of \$414,248 is picked up by the taxpayers.

The utilities affected by these fees will not be able to raise the rates of City utility users to offset the costs. The rates of City utility users would have to be adjusted for all users under the jurisdiction of the provider.

Administration Bill No. 3-2013, (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 CHAPTER 262 (STREETS AND SIDEWALKS) OF THE CODE OF THE CITY OF LANCASTER, AND PARTICULARLY PROVIDING FOR THE REVISION OF ARTICLE VI (STREET EXCAVATIONS) TO PROVIDE CITY COUNCIL WITH THE AUTHORITY TO AMEND EXCAVATION FEES VIA RESOLUTION AND TO REVISE CERTAIN PROVISIONS RELATED TO THE ISSUANCE OF PERMITS RELATING TO CURBS AND SIDEWALKS; FURTHER AMENDING CHAPTER 279 (UTILITIES) OF THE CODE OF THE CITY OF LANCASTER, AND PARTICULARLY PROVIDING FOR THE ESTABLISHMENT OF CERTAIN FEES AND CHARGES FOR PERMITS FOR THE ERECTION OR CHANGE OF LOCATION OF POLES; FURTHER AMENDING CHAPTER 285 OF THE CODE OF THE CITY OF LANCASTER (VEHICLES AND TRAFFIC), AND PARTICULARLY PROVIDING FOR THE ESTABLISHMENT OF FEES RELATED TO THE OPENING OF PRIVATE DRIVEWAYS AND FOR THE PLACEMENT AND PERMITTING OF DUMPSTERS WITHIN THE PUBLIC RIGHTS-OF-WAY; REPEALING INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

President Williams called a Public Hearing: Affective January 1, 2007 amended Act 45 at Section 7210, 503 (F) requires that a municipality proposing to amend the Uniform Construction Code, also provide the Department of Labor and Industry with a written notice containing time, place of the public hearing and a summary of the changes proposed by the ordinance, including code sections affected by the changes. The City of Lancaster is proposing several technical amendments to the Uniform Construction Code. We have presented the technical amendments to the Commonwealth of Pennsylvania, Department of Labor and Industry and the amendments have been posted on Labor and Industry's website, including a notice of tonight's Public Hearing. Following the Public Hearing we will introduce the bill for the first reading. City Council will continue to receive comments on the bill until the second reading which is proposed for May 14, 2013.

Randy Patterson, Director of Economic Development & Neighborhood Revitalization, stated that the City of Lancaster chose to enforce the Uniform Construction Code locally, rather than having Labor and Industry enforce that new stated code for all building projects in the City of Lancaster. In doing so, the City has the right to make several different types of changes to the Uniform Construction Code. It can change administrative requirements in the Code and those do not require Department approval. But those changes must either equal or exceed existing requirements within the Code. It cannot lessen the requirements of the Uniform Construction Code. A second opportunity is to make changes to technical requirements of the Code, and that's what this bill particularly refers to. Again, those requirements do need to be approved by the Department of Labor and Industry and they also must equal or exceed the existing requirements. As President Williams stated, we have already informed the Department of Labor and Industry of

the changes we are intending to make, and today we received their final comments on the changes. They made no more significant changes to what was posted with the exception of one thing. The original bill that was posted had a violations and penalties section identifying local penalties and violations that we would identify with the Code. Labor and Industry informed us that the State Law does not permit local municipalities to establish their own violations and penalties. We must apply the Violations and Penalties Section of the Uniform Construction Code. So we have deleted that section of the Ordinance. Once the City Council goes through and approves the technical requirements, in May, there is still an opportunity for people to challenge the ordinance to the Department of Labor and Industry. The ordinance would be effective 35 days after the second reading according to State Law.

Administration Bill No. 4-2013, (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 AND/OR MODIFYING CHAPTER 116 – CONSTRUCTION CODE, UNIFORM WHICH INCLUDES PROVISIONS OF THE 2009 INTERNATIONAL CODES SECTIONS INCLUDING BUT NOT LIMITED TO THE INTERNATIONAL RESIDENTIAL CODE, INTERNATIONAL BUILDING CODE, INTERNATIONAL MECHANICAL CODE, AND INTERNATIONAL PLUMBING CODE, ALL AS INCORPORATED INTO PROVISIONS OF THE PENNSYLVANIA CONSTRUCTION CODE ACT (ACT 45 OF 1999); ESTABLISHING VIOLATIONS AND PENALTY PROVISIONS IN CHAPTER 116; 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.

PUBLIC COMMENT – Mark Sellers, 729 New Holland Avenue, noted that the Rental Property Ordinances call for inspections. He has two letters one that states the inspections take place every four years and another that states at least every four years. He noted that these letters are two years apart, and stated that there should be consistency in the laws.

REPORT OF THE MAYOR – The Mayor’s report to Council can be viewed on the City’s website www.cityoflanasterpa.com

President Williams adjourned the meeting at 8:10 p.m.

Louise B. Williams, President

Attest:

City Clerk