

STATED MEETING - CITY COUNCIL – MARCH 14, 2000

A meeting of the Lancaster City Council was held on Tuesday, March 14, 2000, in Council Chambers, Southern Market Center, 100 South Queen Street, Lancaster, Pa., at 7:30 p.m., with President Polite presiding.

City Council led the assembly in the Pledge of Allegiance.

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

The minutes of the meeting of February 22, 2000 were approved by a unanimous roll call vote.

REPORT OF THE MAYOR – Mayor Smithgall stated that on Wednesday, February 23, the Lancaster Council of Neighborhoods was reborn, he reminded everyone that the next meeting is Wednesday, March 22, at 7:00 p.m. in this room. On February 24, the Horse Barn was dedicated at Long's Park for the mounted patrol horses. This was built and put together by all community donations. On Saturday, Feb. 26, there was a celebration for the Dominican Republic and on February 28, he started to chair the MPO meeting at the County Courthouse and Pete Shaub took over when he was elected the new chairman. On February 29, the YMCA had a meeting regarding the community needs assessment. On March 1, there was a party by the employees of the Housing Bureau of the City for Chief Building Inspector Jim Schelling who retired. On the third he attended the Naturalization Day Luncheon where he spoke to the new citizens and congratulated them. On Saturday the fourth, he attended Cub Scout Pack 5 at First Baptist Church and on Tuesday, the 7th welcomed the first night class for the Citizens Police Academy and these will be given 3 more times this year. Today there were 26 students from Lancaster Christian School on a tour of City Hall.

PUBLIC COMMENT – Ms. Patricia Williams, 618 Schuylkill Street came to Council and again asked Council to do something about the problem at the Shell Recycling Center which is in her backyard. She relayed to Council various complaints about the situation and Mayor Smithgall stated that he was down there the other day and he agrees with her assessment of the situation. Mr. Eli Williams, at 604 South Marshall Street, stated that he lives with this junkyard every day and every night and supposes that City Council does not and it is out of sight out of mind. He has been there since day one. He challenged Council to go down there tonight and look on the outside and see what your see. Everything you see there is not supposed to be there, all the paper, the cardboard, the plastic bales that are outside that he was told time and time to be put into a dumpster and hauled away. He asked the Council to consider the children and families that are living and growing up in that neighborhood.

Mr. Shell, 219 South Marshall Street, was in attendance and responded by stating that he owns and operates the recycling center at 640 South Franklin Street. He asked Council, the Mayor to come down and assess the business and the condition that he keeps the business in. He stated that at all times he is trying to keep the place as neat as possible. He defended his business and stated that he lives in the neighborhood and raised his children there. He has his employees make sure that the containers are covered, he stops work at 4:00 and they clean up. The only problem is that there is no way to tell their other suppliers what time to bring a load in. They tell us the time to deliver. The truck driver may come late sometimes.

Councilman Graupera asked Mr. Shell if he owns or leases the property where his business is located. Mr. Shell stated that he owns it. Mr. Graupera asked if he owns property comparable to the property where his business is located and Mr. Shell said no.

Councilman Mendoza stated that he has dealt with Mr. Shell and Mrs. Williams on this issue several years ago. He had both come to a committee of Council and we had a very good understanding of each other's needs as well as a respect for each other's feelings. So we have worked on this issue before. He does not understand why we are going through this process when for a number of months they understood each other's feelings. He thinks we may have to go back to the table and try to alleviate this problem.

Councilman Diamantoni asked the Mayor if the City is doing anything to expedite resolution of this issue. Mayor Smithgall stated that Zoning is working on this and that is all he can say.

Councilman Diamantoni asked if there are littering laws being broken here and the Mayor responded that it is hard to contain all material in this sort of operation, he has been down there already when things have blown out so there probably could be a littering violation, but he does not think it is intentional.

Roger Alexander, West Chestnut Street, stated that this is a matter of the zoning laws and what has happened for years and years. He agrees with the Mayor that it is a recycling operation and it cannot be clean and bright, but the operation should not have been put there in an R-2 area. It is about the highest rating for a neighborhood that is in the City. The City was willfully inadequate in moving on this matter. Mr. Shell has come before the Zoning Board about 4 times, and you could not get the transcript for these proceedings. This was one of those "do good" things of the previous administration that was put in an area it never should have been. The City owned a good chunk of that land and they sold it Mr. Shell for five grand. When it finally got to the Zoning Board for the 4th time it was very clear from the previous hearings that the prior Zoning Board had said he could have x number of canisters or so. That Mr. Shell does violate because he is allowed two, next time he asked for four and the next time he asked for six, in an R-2 area, which is heavily residential. The thing does not belong there, the City is aware of

it, but for some reason there is no status report on this. It should be moved. Mrs. Williams is right, he wishes the City would take some action.

Mayor Smithgall stated that as far as a status report, he cannot discuss it, but it is the hands of an attorney right now.

Mr. Marty Hulse, 700 block of Lafayette Street, stated that he is concerned with the Zoning and non-response. For the past 10 months, he and his parents and neighbors have been living in a neighborhood that is under siege by nuisance neighbors. The tenants at 741 Lafayette Street blatantly disregard the neighbors. 741 Lafayette Street is a junkyard where cars have no tires, or engines or windshields or doors or hoods. Until a week ago, a wheel-less, windshield-less car stood balancing on a wheel well. The sidewalks in front of the property are stained with oils and fluids. There are not many places in the City like the 700 block of Lafayette Street, there are just five residences on the street and many of the properties on Manor and High Street go back to Lafayette where their parking areas are. And there are 4 businesses on the street.

Until last spring, the street was quiet on the weekends and in the evenings. But that quiet is now gone. The peace is disrupted by 741's loud music, the interrupting car stops that park on the sidewalk and in the street. His parents live right across from the 3 bay garage and until April 1, 1999 the garage operated from 7:00 am until 4:00 p.m., but now it is operating at least 10 hours a day, sometimes until 11:00 p.m. The police are called, but the problem still exists. Vehicles that we complained about to Zoning and Inspections months ago still sit. A neighbor was fined \$500 including the City's legal fees to remove vehicles that he has repaired. He lives in the same block. The owner of this garage and the tenants of the garage have been reprieved. He asked the City to take a proactive stance and help us with either a mediation service or a City meeting with the property owners and tenants.

Mayor Smithgall stated that we are in a legal logjam and we are trying. We are working on it.

President Polite asked Councilman Stoltzfus to monitor the situation at 741 Lafayette Street and see if he can come up with some resolution. Mayor Smithgall stated that the people in the garage are most uncooperative.

He further requested that Councilman Mendoza to apprise Council of what is going on in the Shell situation and bring it back to us.

PUBLIC SAFETY COMMITTEE – Councilman Mendoza stated that the Traffic Commission is meeting on March 21, at 3:30 p.m. in City Council Chambers. Also there will be a Public Safety meeting on March 23, 2000 at 6:30 p.m. in Conference Room No. 4.

PUBLIC WORKS COMMITTEE - Councilman Stoltzfus stated that there was a meeting this evening, we had an overview of the Lancaster Utility Advisory Commission annual budget for 1999. There will be a report at the meeting of March 28, 2000.

ECONOMIC DEVELOPMENT AND REVITALIZATION COMMITTEE – Councilman Graupera stated that the representatives of High Associates and the Convention Center Authority will be updating Council and this Committee on Monday, March 20, 2000 at 6:30 p.m. in Conference Room #4 about the Penn Square Project.

FINANCE COMMITTEE – Councilman Lehman stated that the Finance Committee will meet this Thursday, March 16th, at 7:30 p.m. to go over the February Finance Report. He further reported that the Rules Committee will meet on Thursday, at 7:00 p.m. He asked the City Solicitor to interpret for him Optional Third Class City Charter Law, Section 413, so he understands the process. Solicitor Garman stated that what that says is that if the Mayor vetoes an ordinance passed by Council, first his veto must occur within 10 days of the receipt. If he doesn't act on it and doesn't return it, it passes. If he wants to veto it he has to within that period of time and state his objection and reasons for vetoing. It can come back to City Council for reconsideration and City Council has the ability to override that veto by a two-thirds vote of the Council.

Councilman Lehman asked how does that reconsideration occur. Mr. Garman stated that there is no time limit here, it doesn't say it has to be at the next meeting. He does not know of any case law that says that you can wait a year or two years or 2 months. It is probably interpreted to be in a timely fashion, not necessarily at the next meeting. It should come on the agenda, for a vote of Council. Mr. Lehman asked if it would happen automatically? Mr. Garman stated that it would happen automatically in that Council would get notice of the Mayor's veto, if someone then moves for the reconsideration to an override vote, then it should go on the agenda for an override vote.

Answering President Polite's question can it be brought up at a meeting, Mr. Garman stated that it would be safe to put it on the written agenda, also stating that in the spirit of the ordinance that the Mayor vetoed would indicate that the idea of that proposed ordinance is to allow Council time to reconsider and to allow further input from the citizens.

Councilman Diamantoni asked if that reconsideration would be of the one originally written? Mr. Garman stated that if we are talking about an amendment to the vetoed ordinance, he doesn't think you can do that because you can't amend something that doesn't exist. Once the Mayor has vetoed the ordinance, it is a nullity. Now Council can override the veto.

Councilman Lehman stated that he knows at the State Level if there are

typographical errors, or grammatical errors in the passage of legislation, by the State General Assembly, there is a provision that allows for those non-substantive changes to be taken care of. He asked Mr. Garman if that is the same in municipal law.

Mr. Garman stated that we are probably talking about two different things. Here we're attempting to amend a typographical error or a non-substantive change to an ordinance that doesn't exist because it has been vetoed. Council can override the veto. If you do then you have a flawed ordinance on your books. Councilman Lehman asked if that were true even if Council took no action to make that supposed omission. Even if he has written documentation that Council took no action to remove a typographical error and it was an error in typing.

Mr. Garman stated that his legal opinion is Council had a proposed ordinance which was vetoed, doesn't exist anymore and you can't amend that. What you can do is override the veto, then you have a flawed ordinance. Then pass a new ordinance amending the mistake in this ordinance, which is wasting time. To do this faster, let the veto stand, re-draft the ordinance, bring it back through the proper channels and pass it if that is what Council wants to do. His concern is that if we don't follow this step by step, because this is an ordinance which is a springboard to all other ordinances, that says here is what you have to do if you want to pass a valid ordinance. If we have something that can be argued that is flawed as the springboard; all future ordinances could be subject to challenge.

Councilman Lehman stated that the second item on the agenda will be a revised version of the ordinance that the Mayor vetoed two weeks ago that will include New Business, because he is inclined to agree with the Solicitor. The error was a typographical error. He has the committee report that shows clearly that the Council had New Business as part of its ordinance. For some reason when it was typed in that item was omitted. He is not interested in getting into a partisan fight with the Mayor over a typographical error, so he is willing to start from square one. So the second item on the agenda for the Rules Committee on Thursday, at 7:00 p.m. will be the exact same ordinance with the typographical error corrected.

COMMUNITY DEVELOPMENT AND PLANNING COMMITTEE – Councilwoman Dickson stated that the committee has had two meetings since the last Council Meeting. The agenda items included an update from Jane Thomas of the Inner City Group on the South Duke Street Project. She reported that they're still in the stage of getting input from citizens. They have formed a task force of residents of that area. We also had a presentation from Marta Howell who recently relocated to Lancaster from Michigan; she has extensive experience in neighborhood development.

The Citizens Panel that was approved at the last Council Meeting has had two meetings full day Saturday; we appreciate the willingness of those 30 people to spend

those days on this project.

The Committee will attend the meeting of the Lancaster Council of Neighborhoods and we will be on the agenda.

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

1. Thomas and Sally Ann Schneider, to replace 15 existing wood windows with 15 all welded white vinyl replacement windows and replace existing front and rear entrance doors with high security steel doors at 238 E. Marion Street.

2. Nancy Morris, representing LEADS to install additional brackets, at the same height as existing brackets, evenly spaced on all elevations of the building, from which hanging baskets of flowers may be hung at Central Market.

3. Gladys Myers, to repair and re-point brick as required, repair/replace porch rails and balusters as required and replace porch deck and apron in-kind at 413 Howard Avenue.

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

COUNCIL COMMENTS – President Polite asked Councilman Diamantoni to work with the City Clerk to invite the McCaskey High School Men’s Basketball team to the next meeting of Council so that we may honor them and their coaches for the winning season.

President Polite and Mayor Smithgall encouraged participation in the Census 2000, stating that the City of Lancaster has the best team for Census 2000, which has been honored by the government. The Mayor stated that for everyone who is missed it costs the City \$432 or \$4,320 for the next Census in federal money per person. Everyone does count. That goes for School Districts, CDBG money, all kinds of federal money that trickles down to us, it is very important that we get accurate count.

After several community announcements President Polite adjourned the meeting at 8:50 p.m.

President

Attest:

City Clerk